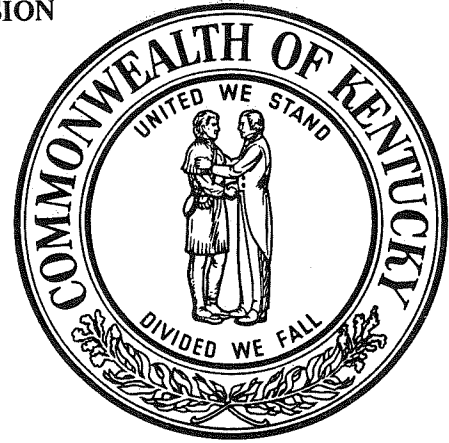


LEGISLATIVE RESEARCH COMMISSION
FRANKFORT, KENTUCKY

VOLUME 3, NUMBER 4

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This is an official publication of the Commonwealth of Kentucky, Legislative Research Commission, giving public notice of all proposed regulations filed by administrative agencies of the Commonwealth pursuant to the authority of Kentucky Revised Statutes Chapter 13.

Persons having an interest in the subject matter of a proposed regulation published herein may request a public hearing or submit comments within 30 days of the date of this issue to the official designated at the end of each proposed regulation.

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KENTUCKY ADMINISTRATIVE REGULATIONS are codified according to the following system and are to be cited by Title, Chapter and Regulation number, as follows:

Title	Chapter	Regulation
806	KAR	50 : 155
Cabinet, Department, Board or Agency	Bureau, Division or Major Function	Specific Area of Regulation

Administrative Register of Kentucky

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Emergency Regulations

JULIAN M. CARROLL, GOVERNOR
EXECUTIVE ORDER 76-971
September 22, 1976

EMERGENCY REGULATION

Department of Fish and Wildlife Resources

WHEREAS, due to federal jurisdiction over migratory waterfowl, the Commonwealth's hunting season must conform to federal limits; and

WHEREAS, the recent promulgation of federal hunting regulations makes it impossible for the Kentucky Department of Fish and Wildlife Resources to comply with normal filing procedures under Chapter 13 of the Kentucky Revised Statutes; and

WHEREAS, the Department of Fish and Wildlife Resources has determined and finds that an emergency exists and that there is an immediate necessity to promulgate the Commonwealth's migratory waterfowl hunting regulations; and

WHEREAS, the Commissioner of the Department of Fish and Wildlife Resources, in conjunction with the

Secretary of the Development Cabinet, pursuant to Kentucky Revised Statutes Chapter 150 and Kentucky Revised Statutes 13.082, has promulgated the Regulation hereinabove referenced:

NOW, THEREFORE, I, JULIAN M. CARROLL, Governor of the Commonwealth of Kentucky, by the authority vested in me by Kentucky Revised Statutes 13.085(2), hereby acknowledge the finding of the Department of Fish and Wildlife Resources that an emergency exists and direct that the attached Regulation become effective immediately upon being filed in the Office of the Legislative Research Commission.

JULIAN M. CARROLL, Governor
DREXELL R. DAVIS, Secretary of State

DEVELOPMENT CABINET

Department of Fish and Wildlife Resources

301 KAR 2:022E. Waterfowl and migratory birds; seasons; limits.

RELATES TO: KRS 150.025, 150.170, 150.175, 150.235, 150.305, 150.330, 150.340, 150.360

PURSUANT TO: KRS 13.082

EFFECTIVE: September 27, 1976

EXPIRES: January 20, 1977

NECESSITY AND FUNCTION: This regulation pertains to the bag limits, possession limits and seasons for the taking of certain migratory birds, including waterfowl. In accordance with KRS 150.015, this regulation is necessary for the continued protection and conservation of the migratory birds listed herein, and to insure a permanent and continued supply of the wildlife resource for the purpose of furnishing sport and recreation for present and future residents of the state. The framework of this regulation falls within the seasons and bag limits dictated by the U.S. Fish and Wildlife Service. The function of this regulation is to provide for the prudent taking of migratory birds within reasonable limits based upon an adequate supply.

Section 1. Seasons:

(1) Ducks, Coots and Mergansers: November 20 through December 2, 1976; December 11, 1976 through January 16, 1977.

(2) Geese: November 12 through January 20, 1977.

(3) Rails (Sora and Virginia); November 12 through January 20, 1977.

(4) Gallinules: November 12 through January 20, 1977.

Section 2. Limits. (1) Ducks:

(a) Bag Limits. A point system bag limit is in effect. Point values for species and sexes taken are as follows (either sex unless specified):

1. Canvasback: 100 points;

2. Hen mallard, black duck, wood duck, hooded merganser and redhead: Seventy (70) points;

3. Pintail, blue-winged teal, cinnamon teal, green-winged teal, gadwall, shoveler, scaup, and mergansers (except hooded merganser) ten (10) points;

4. Drake mallard and all other species of ducks not mentioned above: twenty-five (25) points.

U.S. POSTAL SERVICE STATEMENT OF OWNERSHIP, MANAGEMENT AND CIRCULATION (Required by 39 U.S.C. 3685)		
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G. TOTAL (Sum of E, F1 and 2—should equal net press run shown in A)	1,300	1,300
11. I certify that the statements made by me above are correct and complete.		
SIGNATURE AND TITLE OF EDITOR, PUBLISHER, BUSINESS MANAGER, OR OWNER E. Hugh Morris, Assistant Director: Publications		
12. FOR COMPLETION BY PUBLISHERS MAILING AT THE REGULAR RATES (Section 132.121, Postal Service Manual) 39 U.S.C. 3626 provides in pertinent part: "No person who would have been entitled to mail matter under former section 4259 of this title shall mail such matter at the rates provided under this subsection unless he files annually with the Postal Service a written request for permission to mail matter at such rates." In accordance with the provisions of this statute, I hereby request permission to mail the publication named in item 1 at the phased postage rates presently authorized by 39 U.S.C. 3626.		
SIGNATURE AND TITLE OF EDITOR, PUBLISHER, BUSINESS MANAGER, OR OWNER E. Hugh Morris, Editor		

5. Coots; but limited to fifteen (15) daily and thirty (30) in possession: zero (0) points.

(b) The daily bag limit is reached when the point value of the last duck taken, added to the total of the point values of the other ducks already taken during that day, reaches or exceeds 100 points. The maximum number of points possible is 195.

(c) Possession limits. The possession limit is the maximum number of ducks of those species and sexes which could have legally been taken in two (2) days. The maximum number of points possible for the possession limit is 390.

(2) Geese:

(a) Bag Limits, statewide. Five (5) only two (2) Canada or two (2) white-fronted or one (1) of each.

(b) Possession Limits, statewide. Five (5) (any combination of Canada, blue, snow or white-fronted geese, not to include more than four (4) Canada and white-fronted in the aggregate, of which not more than two (2) may be white-fronted geese).

(3) Others:

(a) Coots: bag limit fifteen (15), possession limit thirty (30);

(b) Rails (Sora and Virginia): bag limit twenty-five (25) (singly or in the aggregate), possession limit twenty-five (25) (singly or in the aggregate);

(c) Gallinules: bag limit fifteen (15), possession limit thirty (30).

Section 3. Migratory Bird Shipping and Transporting Restrictions. Migratory birds taken may not be transported, shipped, or delivered for transportation or shipment by common carrier, the postal service, or by any person except as the personal baggage of the hunter taking the birds unless such birds have a tag attached, signed by the hunter, stating his address, total number and species of birds, and the date such birds were killed.

Section 4. Shooting Hours. The basic shooting hours for ducks, geese, coots, mergansers, rails and gallinules shall be one-half (1/2) hour before sunrise to sunset (prevailing time). The shooting hours for ducks and geese on Ballard County Wildlife Management Area shall be one-half (1/2) hour before sunrise to twelve (12) o'clock noon prevailing time.

Section 5. Shot Restrictions. Only shot no larger than No. 2 is allowed for waterfowl hunting.

Section 6. Methods of Taking. Migratory game birds and waterfowl may be taken only by the aid of dogs, livestock, artificial decoys, with longbow and arrow, or with shotgun (no larger than ten (10) gauge and incapable of holding more than three (3) shells) and fired from the shoulder, and by means of falconry, with the aid and use of bird calls, except recorded or electrically amplified bird calls or sounds, or recorded or electrically amplified imitations of bird calls or sounds. One (1) fully feathered wing or head must remain attached to all waterfowl species for identification purposes.

Section 7. Wildlife Management Areas Open to Waterfowl Hunting. (1) Ballard County Wildlife Management Area, located in Ballard County, Kentucky, and described as follows: bounded on the north by the Turner Landing Road, on the west by the Ohio River, on the south by the Terrell Landing Road, on the east by

refuge sign markers and visible yellow paint markers on tree line; a tract of land known as the Rudy and Haydon tracts bounded on the south by the Turner Landing Road, on the east by refuge sign markers and visible yellow paint markers on tree line, on the north by Kentucky Highway 473, then running south along the east bank of Mitchell Lake to the Turner Landing Road; also, open on the north side of the refuge proper a tract of land north of the Clark Line Road including Shelby Lake and west to the Ohio River and continuing north to yellow signs:

(a) Species and Seasons:

1. Ducks, Coots and Mergansers: December 11 through January 15, 1977 (excluding Sundays and Christmas Day);

2. Geese: December 1 through January 20, 1977 (excluding Sundays and Christmas Day).

(b) There will be an eight (8) shell limit per hunter on the Ballard County Wildlife Management Area when hunting geese. This does not apply when hunting ducks from pothole blinds or pits as separated from goose hunting areas. Shooting ducks is prohibited in goose hunting areas and shooting geese in duck areas is prohibited. The barrel and magazine of all guns will be checked for ammunition before the hunter enters the check station. No shot larger than No. 2 will be allowed for hunting waterfowl. Any hunter on the management area under the age of eighteen (18) must be accompanied by an adult. Any person whose transportation to and from pits and blinds is furnished by the Department of Fish and Wildlife Resources must have his gun encased.

(c) Miller Tract, located in Ballard County, Kentucky, and consisting of 300 acres, more or less south of the Terrell Landing Road and marked with yellow signs reading "Wildlife Management Area for Public Hunting" is open to waterfowl hunting during the regular statewide season. Pits and blinds must be 100 yards apart and 100 yards from Terrell Landing Road. Both ducks and geese may be taken by hunters occupying a pit or blind. Shooting hours conform to statewide regulations.

(2) Land Between the Lakes Wildlife Management Area, located in Lyon and Trigg Counties and described as follows: Waterfowl hunting is permitted on Kentucky Lake below elevation 359 feet and at higher elevations within twenty-five (25) yards of the 359 foot elevation, Kentucky-Tennessee state line to Barkley Canal in all bays is open to hunting, except Duncan, Smith and Pisgah Bays which are indicated by signs and are closed to hunting. Duncan Bay is closed to all activity from November 1 until March 31 as an eagle sanctuary. No permits are required. The remainder of Kentucky Lake is open to waterfowl hunting in conformance with statewide regulations.

(3) Lake Barkley Wildlife Management Area. Refuge areas are as follows and will be closed to fishing, boating and hunting or molesting of waterfowl as designated by posted signs:

(a) Refuge area on the west side of the main channel between river mile 51 (Hays Landing Light) and river mile 57.3 (Crooked Creek Light) as designated by signs will be closed from November 1, 1976 through February 15, 1977. Boating is allowed but hunting is prohibited in Crooked Creek Bay.

(b) Refuge area surrounded by levee and located between river mile 68.4 and river mile 70.4 will be closed from October 1, 1976 through February 28, 1977.

(c) Open Hunting Areas. Hunting will be permitted on the remainder of Lake Barkley with the exception of recreation areas and access points which will be closed and designated by posted signs at the entrance of said areas.

Waterfowl hunting along the western shore of the lake will be confined to those areas below the 359 foot contour, and those areas within twenty-five (25) yards of the 359 foot elevation.

(d) Permanent blinds or pits must be registered on a permit issued by the Corps of Engineers. Applicants for blind or pit permits must show a Kentucky hunting license to the registration clerk before a permit will be issued. Registration will be conducted at the Lake Barkley Resource Manager's Office located at Barkley Dam off U.S. Highway 641-62 on October 1 from 8:00 to 9:00 a.m., prevailing time. Applicants for permanent blinds or pits will take part in a special drawing to determine the order of blind registration. The drawing, which will close promptly at 9:00 a.m., will be followed by registration in which hunters with the lowest numbers will receive first choice of locations. Hunters who miss out on the special October 1 drawing will be registered on a first come, first served basis at the Resource Manager's Office from 8:00 to 3:00 p.m. (prevailing time) weekdays, except federal holidays, from October 1 through December 31. A permit will be issued for each permanent blind or pit and only one (1) permit will be issued per hunter. Blind or pit permittees will have priority over their registered blinds or pits and may claim ownership by showing their permit. Permits are not transferable to other hunters. Permanent registered blinds or pits must not be locked to exclude other waterfowl hunters when not occupied. Any waterfowl hunter may occupy any unoccupied blind or pit until claimed by the permittee or owner. All pits and blinds must be 100 yards apart and 200 yards from any refuge as designated by signs. Permanent pits or blinds must be removed no later than thirty (30) days after the close of the waterfowl season or they become the property of the Department of Fish and Wildlife Resources.

(4) Barren Lake Wildlife Management Area, located in Barren, Allen and Monroe Counties and including all lands and waters owned and operated by the Department of the Army, Corps of Engineers, including those under license to the Kentucky Department of Fish and Wildlife Resources as marked by red painted steel boundary posts, is open to waterfowl hunting during the regular statewide season with the following exceptions: all recreation areas, operational areas and islands (except Mason Island) are closed to all hunting. Lands under license to the department are open to hunting for all other wildlife species during the regular statewide seasons. Permanent blinds must be registered and a blind permit issued by the Corps of Engineers. Registration will be conducted at the Barren Lake Resource Manager's Office located near the dam off Kentucky Highway 252, from October 1 through December 31, 1976, during weekdays only, from 7:30 a.m. to 4:00 p.m. prevailing time, excluding federal holidays. A permit will be issued for each permanent blind and only one (1) permit will be issued per hunter. All blinds must be 100 yards apart. Permanent blinds must be removed no later than thirty (30) days after the close of the waterfowl season or they become the property of the Department of Fish and Wildlife Resources.

(5) Nolin, Rough, Green and Buckhorn Wildlife Management Areas, including all lands and waters owned and operated by the Department of the Army, Corps of Engineers, including those under license to the Kentucky Department of Fish and Wildlife Resources, and excluding all recreation and park areas, are open to all waterfowl hunting during the regular statewide season. Permanent blinds must be registered and a blind permit issued by the

Corps of Engineers. Registration will be conducted at each of the Resource Manager's offices located at or near the dam sites, from October 1 through December 31, 1976, during weekdays only, from 7:30 a.m. to 4:00 p.m., prevailing time, excluding federal holidays. A permit will be issued for each permanent blind and only one (1) permit will be issued per hunter. All blinds must be 100 yards apart. Permanent blinds must be removed no later than thirty (30) days after the close of the waterfowl season or they become the property of the Department of Fish and Wildlife Resources.

Section 8. Wildlife Management Areas Closed to All Hunting for Waterfowl, Coot, Gallinules and Rails:

(1) Sauerheber Unit of the Sloughs Wildlife Management Area, located in Henderson County, and described as follows, will be closed to all hunting, fishing, boating and trespassing except by authorized persons during the period October 15, 1976 through March 15, 1977; bounded on the north by Kentucky Highway 268 and including all state-owned lands to the south, within the area designated by yellow signs.

(2) Central Kentucky Wildlife Management Area, located in Madison County.

(3) Dewey Lake Wildlife Management Area, located in Floyd County.

(4) Grayson Wildlife Management Area, located in Carter and Elliott Counties.

Section 9. This regulation will not be valid after January 20, 1977.

ARNOLD L. MITCHELL, Commissioner
DR. ROBERT C. WEBB, Chairman

ADOPTED: August 23, 1976

RECEIVED BY LRC: September 27, 1976 at 11:15 a.m.

Amended Regulations Now In Effect

(The following regulations, as proposed to be amended, were published originally in Volume 2 of the Administrative Register. The issuing agencies, following public hearings on the proposals, further amended each regulation. As finally amended, the regulations were approved for filing by the Administrative Regulation Review Subcommittee at its October 6, 1976 meeting and became effective on that date.)

SECRETARY OF THE CABINET Department of Personnel As Amended

101 KAR 1:050. Compensation plan.

RELATES TO: KRS 18.170, 18.190, 18.210, 18.240

PURSUANT TO: KRS 13.082, 18.170, 18.210

EFFECTIVE: October 6, 1976

NECESSITY AND FUNCTION: KRS 18.210 requires the Commissioner of Personnel to prepare and submit to the board rules which provide for a pay plan for all employees in the classified service, taking into account such factors as the relative level of duties and responsibilities of various classes, rates paid for comparable positions elsewhere, and the state's financial resources. This rule is to assure uniformity and equity in administration of the pay plan in accordance with statutory requirements.

Section 1. Preparation, Approval, and Amendment of the Plan. After consultation with appointing authorities and the Commissioner of the Executive Department for Finance and Administration, the commissioner shall prepare and recommend to the board a compensation plan for all classes of position. The board shall present the plan, through the Commissioner of the Executive Department for Finance and Administration, to the Governor for his approval. The plan shall provide salary ranges for the various classes, with the salaries consistent with the functions outlined in the classification plan. Such salary ranges shall include minimum, intervening, maximum, and longevity rates of pay for each class. Each class of position in the classification plan shall be assigned to a salary range in the compensation plan.

Section 2. Entrance Salary. Initial appointments to state service shall be made at the minimum of the pay range for the class unless:

(1) The commissioner determines that it is not possible to recruit qualified employees at the established entrance salary in a specific area, in which case, he may, at the request of the appointing authority, authorize the recruitment for a class of position at a higher step of the range, provided that all other employees in the same class of position in the same agency in the same locality are adjusted in salary to the same step.

(2) [(a)] The commissioner authorizes the appointment of a qualified applicant at the second or third step of the range, provided that any such exception is based on the outstanding and unusual character of the employee's experience, education and ability over and above the minimum qualifications specified for the class, provided that all other employees possessing similar qualifications in

the same class of position in the same agency in the same locality are adjusted in salary to the same step.

[(b)] An agency head signs the personnel action form appointing a college graduate applicant, who is not appointed under 101 KAR 1:050, Section 2 (2)(a) and who has an undergraduate average of 3.25 on a four (4) point scale, or equivalent, or better, and has submitted an official college transcript to the Department of Personnel before the effective date of his appointment.]

Section 3. Re-Entrance to State Service. Appointing authorities, with the approval of the commissioner, may place re-employed, reinstated and probationarily appointed former employees at a salary determined by one (1) of the following methods:

(1) The same class:

(a) Request the same salary that was paid at the time of separation if such salary is within the current salary range;

(b) Request a salary relative to that which was paid employee at time of separation (original salary plus increases resulting from a change of salary range) if such salary is within the current salary range;

(c) Request a lower salary within the current salary range which falls in one (1) of the steps within the salary range;

(d) Request a salary in accordance with the standards used for making new appointments.

(2) A higher class:

(a) Request the same salary that was paid at the time of separation if such salary is within the higher salary range;

(b) Request a salary relative to that which was paid the employee at time of separation (original salary plus increases resulting from a change of salary range) if such salary is within the higher salary range;

(c) Request a salary in accordance with the standards used for making new appointments.

(3) A lower class:

(a) Request the same salary that was paid at the time of separation if such salary is within the lower salary range;

(b) Request a salary relative to that which was paid the employee at the time of separation (original salary plus increases resulting from the change of salary range) if such salary is within the lower salary range;

(c) Request a salary in accordance with the standards used for making new appointments.

Section 4. Salary Adjustments. (1) Change in Salary Range. Whenever a new or different salary range is made applicable to a class of position, persons employed in positions of that class at the effective date of the adjustment shall have their salary placed at least at the

minimum salary step of the new range. An adjustment may be made to the salary step of the new range corresponding to that step which an employee held under the range formerly applicable to his class of position. In fixing salaries on an adjustment, an appointing authority shall afford equitable treatment to all employees affected by the adjustment. Salary adjustments resulting from different salary ranges being made applicable to a class of position shall not affect an employee's normal anniversary increment date.

(2) An employee who is promoted may have his salary raised to the lowest step of the salary range for the class of his new position which will provide an increase over the salary received prior to promotion. If the promotion is to a classification which constitutes an unusual increase in the level of responsibility, the appointing authority, with the prior written approval of the commissioner, may grant a two (2) or three (3) step salary increase over the employee's previous salary, provided the proposed salary is within the salary range for the position.

(3) An employee who is demoted shall have his salary reduced to at least the maximum rate of the new class; however, if an employee whose performance is satisfactory is demoted through no fault of his own as a result of the reallocation of his position to a lower class and his salary is above the maximum, he may retain the salary he received before the reallocation, but he shall not receive salary advancements so long as he remains in a position with a maximum rate no higher than this salary.

(4) Transfer. An employee who is transferred to the same class of position shall be paid the same salary that he received prior to transfer.

(5) Reclassification. An employee who is advanced to a higher pay grade through a reclassification of his position shall have his salary raised to the lowest step of the salary range for the class which will provide an increase over the salary received prior to the advancement.

(6) Reallocation. An employee who is advanced to a higher pay grade through a reallocation of his position shall have his salary raised to the lowest step of the salary range for the class which will provide an increase over the salary received prior to the advancement.

(7) Detail to special duty. An employee who is approved for detail to special duty as provided by 101 KAR 1:110, Section 4, may have his salary raised to the lowest step of the salary range for the class of the new position which will provide an increase over the salary received prior to the detailed assignment. *Annual increments will not be permitted while an employee is on detail to special duty.*

(8) Salary reduction. Employees who are transferred back to their old class, after completion of a detail assignment or unsatisfactory probationary period following a promotion, shall have their salary reduced to the salary rate received prior to the detail assignment or promotion. *An employee who reverts back to his old class after a detail to special duty is entitled to all salary advancements he would have received had he not been on detail to special duty.*

Section 5. Salary Advancements. (1) *Annual increments* [All salary advancements] shall be based upon [quality and quantity of work giving due consideration to] length of service, and shall correspond with the steps of the approved

salary range, and shall, in the classified service, be limited to employees having status.

(2) Employees shall be eligible and may be given consideration by the appointing authority for a one (1) step salary advancement at the beginning of any month following the successful completion of the probationary period. *The service may be provisional or probationary.* An employee may not be given salary advancement more than once for successful completion of a probationary period in the same class [classification] *except as provided in paragraphs (a) or (b).* Thereafter, an employee shall be [eligible and] given [consideration by the appointing authority for] a one (1) step salary advancement at the beginning of the [any] month following completion of twelve (12) months continuous [satisfactory] service since last receiving an *annual or probationary increment* [increase in salary]. [The service may be temporary, provisional, or probationary.] *A reinstated, re-employed, or probationarily appointed former employee who is required to serve a probationary period shall not be eligible for a probationary period salary advancement at the end of that probationary period, except when appointed to a higher classification.*

(a) *Former employees reinstated, re-employed or probationarily appointed to a lower salary shall be eligible for a one-step salary advancement at the beginning of any month following successful completion of a probationary period.*

(b) *An employee reinstated or re-employed at the same or higher salary may be considered for a salary advancement when he has completed twelve (12) months' service since the date he last received a probationary or annual increment. However, a maximum of six (6) months of that twelve (12) months' service may have been earned during the last period of service in which he held status. In no case shall the period for awarding a one-step salary advancement exceed twelve (12) months' continuous service from the date of reinstatement or re-employment.*

(3) Any permanent full-time employee who has served continuously for one (1) year immediately preceding the recommendation and who has not received an outstanding merit advancement *within twelve (12) [twenty-four (24)] months, [and who has not received more than one (1) outstanding merit advancement in his present grade,]* is eligible for a one (1) step outstanding merit advancement in his present grade in addition to any other salary advancements to which he might be entitled if:

(a) His acts or ideas have resulted in significant financial savings to the Commonwealth, or to a significant improvement in service to its citizens; or,

(b) His job performance is outstanding. The appointing agency must submit written justification to the commission and the personnel action form must be approved by the agency head and the commissioner to be effective. In a fiscal year, an agency with sufficient budgeted funds may grant as many outstanding merit salary advancements as *thirty (30) [ten (10)] percent of the number of its employees at the close of the prior fiscal year.*

(4) Subject to the approval of the commissioner, any permanent, full-time employee who, after his probationary period, satisfactorily completes 260 classroom hours of job-related instruction, is eligible for an educational achievement one (1) step salary advancement.

(5) New increment anniversary dates will be established when:

(a) An employee first enters on duty. Increment anniversary date will be the first of the month if the employee enters on duty the first work day of the month.

For employees entering on duty after the first work day of the month, the anniversary date shall be the first day of the following month;

(b) An employee receives an increase in salary as a result of a promotion;

(c) An employee going on leave without pay, shall result in a postponement of employee's receiving an increment one (1) full month for each full or partial month he is on leave.

(6) Increment anniversary dates will not change when:

(a) An employee's position class receives a new or different salary range;

(b) An employee receives a salary adjustment as a result of his position being reallocated or reclassified;

(c) An employee is transferred from one department to another in the same salary grade and at the same rate of pay;

(d) An employee receives a demotion to a position of a lower class or his position receives a lower classification;

(e) An employee is approved for detail to special duty as provided by 101 KAR 1:110, Section 4[.]. *The increment anniversary date will remain the same for the last position in which the employee had status;*

(f) An employee receives an outstanding merit salary advancement under 101 KAR 1:050, Section 5(3), or an educational achievement salary advancement under 101 KAR 1:050, Section 5(4);

(g) An employee receives an adjusted increment based on the fact that the employee had not received the maximum number of salary advancements permitted.

(7) An employee who has not received the maximum number of salary advancements permitted by the time limits set forth may be given additional salary advancements at the beginning of any month provided his salary is not advanced to a step of the salary range higher than he would have reached had he received all salary advancements permitted;

(8) No employee shall have his salary advanced to a point above the maximum of the salary range applicable to the class of his position except as provided by 101 KAR 1:050, Section 5(3), (4), and 101 KAR 1:050, Section 6.

Section 6. Longevity Increases. (1) All salary advancements with the longevity plan shall be based upon [quality and quantity of work, giving due consideration to] length of service, and shall correspond with the steps of the approved salary range, and shall, in the classified service, be limited to employees having status.

(2) An employee shall be eligible and *advanced* [considered for advancement] to the first longevity step after completion of twelve (12) months [of satisfactory] service at the salary rate preceding the first longevity step and seven (7) years of total state service.

(3) An employee shall be eligible and *advanced* [considered for advancement] to the second longevity step after completion of twelve (12) months [of satisfactory] service at the salary rate preceding the second longevity step and nine (9) years of total state service.

(4) An employee shall be eligible and *advanced* [considered for advancement] to the third longevity step after completion of twelve (12) months [of satisfactory] service at the salary rate preceding the third longevity step and eleven (11) years of total state service.

(5) Requirements as to total service. [Service requirements for advancement to the longevity steps require satisfactory service.] The service does not have to be continuous. Absences of leave without pay, except

approved educational leave, in excess of thirty (30) working days shall be deducted in computing total service. Re-employed persons who have been dismissed for cause from state service shall not receive credit for service prior to the dismissal. *In computing years of total service for the purpose of determining longevity eligibility only those months for which an employee earned annual leave shall be used.*

(6) The longevity steps may be used for promotions, demotions, and changes in pay grade, provided the employee possesses the total service required for advancement to the longevity step.

Section 7. Paid Overtime. Overtime for which pay is authorized shall have the approval of the Commissioner of Personnel and the Commissioner of the Executive Department for Finance and Administration.

Section 8. Maintenance and Maintenance Allowance. In each case where an employee or the employee and his family are provided with full or part maintenance, consisting of one (1) or more meals per day lodging or living quarters, and domestic or other personal services, such compensation in kind shall be treated as part payment and its value shall be deducted from the appropriate salary rate in accordance with the schedule promulgated by the commissioner after consultation with appointing authorities and the Commissioner of the Executive Department for Finance and Administration.

Section 9. Supplemental Shift Premium. *Upon request of the appointing authority, the commissioner may authorize the payment of a supplemental shift premium for those employees directed to work an evening or night shift. However, no employee shall receive a supplemental shift premium subsequent to a transfer to a position that is ineligible for a shift differential premium payment. The employee's loss of shift differential pay shall not be a basis for an appeal to the Personnel Board.*

PHILIP TALIAFERRO, Chairman
ADDIE D. STOKLEY, Commissioner

ADOPTED: August 4, 1976

APPROVED: JACKSON W. WHITE, Secretary

RECEIVED BY LRC: September 13, 1976 at 9 a.m.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Health Services
As Amended

902 KAR 9:010. Environmental health.

RELATES TO: KRS 211.920 to 211.945

PURSUANT TO: KRS 13.082, 194.050, 211.090, 211.925

EFFECTIVE: October 6, 1976

NECESSITY AND FUNCTION: KRS 211.920 to 211.945 authorizes the Department for Human Resources to adopt rules, regulations, and standards relating to the public health or health aspects of the operation of state and local confinement facilities. This regulation establishes uniform standards to safeguard the environmental health of persons confined in state and local confinement facilities.

Section 1. Definitions. As used in this regulation:

- (1) "Cell" means a room used to confine one (1) inmate;
- (2) "Dayroom" means a room used to confine inmates during the day;
- (3) "Department" means the Department for Human Resources and the local health department having jurisdiction and their duly designated representatives;
- (4) "Dormitory" means a room used to confine two (2) or more inmates;
- (5) "Inmate" means any person confined in a state or local confinement facility.

Section 2. Sanitary Facilities and Controls. (1) The water supply shall be potable, adequate and from an approved source and shall be developed and approved in accordance with applicable requirements of the Department for Natural Resources and Environmental Protection.

(2) All sewage and liquid waste matter shall be disposed of into a public sewerage system, if available. In the event a public sewerage system is not available, disposal shall be made into a private system designed, constructed and operated in accordance with the requirements of the Department for Natural Resources and Environmental Protection; provided, however, if a public sewerage system subsequently becomes available, connections shall be made thereto and the confinement facility's sewerage system shall be discontinued.

(3) A drinking fountain with a diagonal jet orifice or single service drinking cups shall be provided for each cell, dormitory and dayroom. The use of a common drinking vessel is prohibited.

(4) Each cell shall be provided with a modern prison-type commode. Dayrooms and dormitories shall be provided with one (1) commode for every eight (8) inmates or fraction thereof. Urinals may be substituted for one-half (½) the commodes in facilities used to house male inmates. All commodes and urinals shall be kept clean and in good repair. An adequate supply of toilet tissue shall be provided at each commode.

(5) Each cell shall be provided with a modern prison-type lavatory. Dayrooms and dormitories shall be provided with one (1) lavatory for every eight (8) inmates or fraction thereof. All lavatories shall be kept clean and in good repair. Each lavatory shall be equipped with hot and cold running water, hand-cleansing soap and approved sanitary towels or other approved hand-drying devices.

(6) Showers shall be provided on a ratio of one (1) shower for each fifteen (15) inmates or fraction thereof. All showers shall be kept clean and in good repair. Under

normal operating conditions, each inmate shall be permitted to take one (1) shower per day. An adequate supply of soap and individual towels shall be available for showers. Each shower shall be equipped with hot and cold running water.

(7) All hot water outlets in confinement areas shall have controls to prevent the distribution of water at a temperature which would scald an inmate.

(8) All plumbing shall comply with the state plumbing code.

(9) All garbage and rubbish shall, prior to disposal, be kept in leakproof, nonabsorbent containers and such containers shall be kept covered with tight-fitting lids when stored. Containers used in confinement areas shall be flame-retardant. Adequate cleaning facilities shall be provided and containers shall be kept clean. All garbage and rubbish shall be removed from confinement areas on a daily basis and shall be disposed of at least weekly or more often if necessary, and in such a manner as to prevent a nuisance.

Section 3. Facilities and Equipment. (1) Each cell shall:

- (a) Have at least forty-eight (48) square feet of floor space;
 - (b) Have at least eight (8) foot ceilings;
 - (c) Contain a bed; and
 - (d) Provide facilities for storage of the inmate's personal belongings, including clothing and towels.
- (2) Each dormitory shall:
- (a) Have at least eight (8) foot ceilings;
 - (b) Provide at least fifty (50) square feet of floor space per inmate;

(c) Not serve more than fifteen (15) inmates at any one time;

- (d) Contain a bed for each inmate; and
- (e) Provide facilities for storage of inmates' personal belongings, including clothing and towels.

(3) All floors, walls, ceilings, and equipment shall be constructed of easily cleanable material, kept in good repair and clean. All parts of the confinement facility and its premises shall be kept clean, neat and free of litter and rubbish.

(4) A separate confinement unit shall be provided in all confinement facilities used to confine persons who may be intoxicated. Each such unit shall be equipped with concrete bunks at least twenty-four (24) inches wide and not over four (4) inches in height, and edges shall be rounded smooth. Each unit shall be equipped with a prison-type commode, a flush action floor drain, and a lavatory with a drain adequate to accommodate the refuse commonly associated with such units.

(5) Separate cells and dormitories shall be provided for: adult males; adult females; male juveniles; and female juveniles. Physical, visual and audible separation shall be provided. Separate confinement cells shall be provided for mentally disturbed inmates.

(6) A medical examining room physically and visually separated from cells and dormitories shall be provided.

Section 4. Lighting. Each cell, dayroom, and dormitory room shall be provided with natural or artificial light sufficient to provide fifty (50) foot candles of light for reading purposes. Lighting shall be available for all areas of the confinement facility equal to twenty (20) foot candles to permit observation, proper cleaning and maintenance. All light fixtures shall be kept in good repair and clean.

Section 5. Heating and Cooling. Adequate automatic

**SECRETARY OF THE CABINET
Kentucky Teachers' Retirement System
(Proposed Amendment)**

102 KAR 1:030. Substitute teachers.

RELATES TO: KRS 161.545

PURSUANT TO: KRS 13.082, 161.310

NECESSITY AND FUNCTION: KRS 16.545 provides that members of the Teachers' Retirement System may receive credit for substitute and part-time service only in accordance with trustee regulations. This regulation provides the means for evaluating and crediting such service.

Section 1. Members substituting from one (1) to nineteen (19) days in a given school year may not make contributions and receive service credit.

Section 2. Members substituting twenty (20) days but less than seven-tenths (7/10) of the legal school term for the district may make contributions and receive a fractional year of service credit.

Section 3. A member substituting for at least seven-tenths (7/10) of the legal school year for the district may make contributions for a full year and receive a full year of service credit.

Section 4. No deductions are to be made for any substitute service. A member may make personal contributions for such service under the terms of this regulation upon proper certification of service and salary by the proper authority. All such contributions must be made to the Retirement System Office on or before December 31 following June 30 of the fiscal year in which the substitute service was rendered. The contribution shall be based on the annual salary the member would have received if employed for that school year on a regular full-time basis.

Section 5. A member may receive service credit for substitute service in no more than four (4) school years. Substitute teaching may not be used to qualify for membership in the retirement system.

Section 6. Credit received as a result of substitute teaching may not be used for meeting minimum service requirements as set out in [KRS 161.470(5)(d),] KRS 161.600(1) (a) and KRS 161.661(1).

Section 7. 102 KAR 1:040 is hereby repealed.

PAT N. MILLER, Executive Secretary

ADOPTED: September 20, 1976

RECEIVED BY LRC: September 24, 1976 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Executive Secretary, Teachers' Retirement System,
216 West Main Street, Frankfort, Kentucky 40601.

**SECRETARY OF THE CABINET
Kentucky Teachers' Retirement System
(Proposed Amendment)**

102 KAR 1:045. Transfer to other systems.

RELATES TO: KRS 161.590

PURSUANT TO: KRS 13.082, 161.310

NECESSITY AND FUNCTION: KRS 161.590(2) provides that Kentucky retirement credit may not be used in calculating annuity payments if the same service credit has been used to increase benefits in another retirement system. This regulation provides guidelines for transferring such credit to another retirement system, and procedures to be followed if less than total amount of Kentucky service is to be transferred.

Section 1. *Members may elect to cancel service credit with the Teachers' Retirement System of the State of Kentucky for the purpose of adding the service credit to the member's account with a state or municipal retirement system outside Kentucky. Such service may not be cancelled if the member has received retirement benefits from the Teachers' Retirement System of the State of Kentucky based on the service to be cancelled.* [Members having service credit in another state or city retirement system may transfer service from the Teachers' Retirement System of the State of Kentucky, provided the member has not received and will not receive any retirement benefit from the Teachers' Retirement System of the State of Kentucky based on the service to be transferred.]

Section 2. *Members cancelling less than their total service credit with the Teachers' Retirement System of the State of Kentucky may receive benefits based on the remaining years of service. Members who cancel their service credit shall be entitled only to a refund of the contribution that was credited to the member's account for the cancelled service.* [Members transferring less than the total service credit in the Teachers' Retirement System may receive benefits based on the remaining years of Kentucky service. No refund of contributions shall be made to members transferring less than the total amount of service credited in the Teachers' Retirement System.]

PAT N. MILLER, Executive Secretary

ADOPTED: September 20, 1976

RECEIVED BY LRC: September 24, 1976 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Executive Secretary, Teachers' Retirement System,
216 West Main Street, Frankfort, Kentucky 40601.

**SECRETARY OF THE CABINET
Kentucky Teachers' Retirement System
(Proposed Amendment)**

102 KAR 1:050. Out-of-state service interest rate.

RELATES TO: KRS 161.515

PURSUANT TO: KRS 13.082, 161.310

NECESSITY AND FUNCTION: KRS 161.515 provides that members of the Teachers' Retirement System may secure credit for out-of-state service under certain circumstances, and requires the trustees to set the interest

rate on contributions made to cover such service. This regulation is intended to provide the procedures required to carry out the provisions of this statute and to set the interest rate to be charged.

Section 1. In presenting out-of-state service for credit, the most recent service *may* [shall] be presented first in order.

Section 2. Persons presenting out-of-state service credit shall be required to file an appropriate affidavit on forms provided by the retirement system certifying that the service being transferred is not being used at present and will not be used in the future to qualify for any benefits from any other retirement program.

Section 3. Contributions for *each year to be transferred* [such service] shall be at such rate as *is currently* [was] effective for members of the Teachers' Retirement System [during the period of service] and shall be based on the *first annual* [out-of-state] salary received for service in *Kentucky subsequent to the out-of-state service* [in each year to be transferred]. Interest at the rate of six percent (6%) compounded annually from the end of *each* [the] school year concerned to the date of payment shall be added to the required contributions.

PAT N. MILLER, Executive Secretary

ADOPTED: September 20, 1976

RECEIVED BY LRC: September 24, 1976 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Executive Secretary, Teachers' Retirement System, 216 West Main Street, Frankfort, Kentucky 40601.

SECRETARY OF THE CABINET
Kentucky Teachers' Retirement System
(Proposed Amendment)

102 KAR 1:055. Military service credit.

RELATES TO: KRS 161.507

PURSUANT TO: KRS 13.082, 161.310

NECESSITY AND FUNCTION: KRS 161.507 provides for the crediting for retirement purposes time spent on active duty with the Armed Forces of the United States, with certain limitations. This regulation sets up the procedures for validating and crediting such active duty service.

Section 1. A member may receive credit toward retirement as provided in KRS 161.507, upon the payment of contributions to the retirement system as provided in this regulation. Military service accepted by another public teachers' retirement system and for which benefits are being paid, may not be credited for service in the Teachers' Retirement System of the State of Kentucky.

Section 2. If the member was in active contributing status at the time of entry into active military service, the salary base upon which contributions shall be made will be the last annual salary earned as a teacher.

Section 3. If the member was not in active contributing status at the time of entry into active military ser-

vice, the salary base upon which contributions shall be made will be the first annual salary received in a covered position following the active military service.

Section 4. The rate of contribution payments shall be the rate in effect for each year for which contributions are to be paid. Interest at the rate of three (3) percent compounded annually shall be added, calculated from the end of each year to the date paid.

Section 5. In the event that the member has more than six (6) years of active military service, the calculations for contributions shall be based on the most recent service. Active duty of less than six (6) months duration shall not be credited toward service for retirement purposes, unless teaching service was interrupted by such duty.

Section 6. A member, having valid service credit in the Teachers' Retirement System and one of the other state supported retirement systems of Kentucky, may elect to purchase retirement credit for active duty time in either of the systems concerned, or the service credit may be divided between the two (2) systems. If the service is to be divided the following additional requirements must be met:

(1) The total service credited in all systems may not exceed six (6) years.

(2) The same years active duty may not be used in more than one (1) system. concerned to the date of payment shall be added to the required contributions.

Section 7. Retirement service credit for military service performed after July 1, 1976, shall be allowed only if the member desiring such service credit contributes to the Teachers' Retirement System a sum equal to thirty-five (35) percent of the actuarial cost for each year so credited. The board of trustees shall adopt a table of actuarial factors to be used in calculating the amount of the required contribution.

PAT N. MILLER, Executive Secretary

ADOPTED: September 20, 1976

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SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Executive Secretary, Teachers' Retirement System, 216 West Main Street, Frankfort, Kentucky 40601.

SECRETARY OF THE CABINET
Kentucky Teachers' Retirement System
(Proposed Amendment)

102 KAR 1:060. Refunds.

RELATES TO: KRS 161.470

PURSUANT TO: KRS 13.082, 161.310

NECESSITY AND FUNCTION: KRS 161.470(6) provides that members of the Teachers' Retirement System may receive a refund of their contributions upon withdrawal from service. This regulation provides the

administrative procedures necessary to carry out the provisions of this statute.

Section 1. Refunds shall be made on the basis of permanent withdrawal from teaching in a covered position. No refund may be made if the member is under contract to teach.

Section 2. *Partial refunds of member contributions shall only be permitted when a member cancels service credit and obtains credit for the service in a state or municipal retirement system outside Kentucky as provided in 102 KAR 1:045.* [Partial refunds of accounts shall not be permitted nor shall refunds be made if the member is absent from active service on an official leave-of-absence.]

PAT N. MILLER, Executive Secretary

ADOPTED: September 20, 1976

RECEIVED BY LRC: September 24, 1976 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Executive Secretary, Teachers' Retirement System, 216 West Main Street, Frankfort, Kentucky 40601.

SECRETARY OF THE CABINET
Kentucky Teachers' Retirement System
(Proposed Amendment)

102 KAR 1:110. Leave of absence.

RELATES TO: KRS 161.545

PURSUANT TO: KRS 13.082, 161.310

NECESSITY AND FUNCTION: KRS 161.545 provides that members of the Teachers' Retirement System may make contributions and receive service credit while on a leave of absence as set out in regulations of the board of trustees. This regulation provides procedures for receiving such contributions and granting of service credit for members on leave of absence.

Section 1. Members may make contributions while on leave of absence granted by the governing board of a school district or institution in accordance with the provisions of the statutes at the time the leave is granted. Payment of contributions shall be made by the end of the fiscal year next succeeding the year in which the leave was effective. No member may make payment on leave of absence for more than three (3) years in any ten (10) year period beginning with the first year of such leave. The administrative head of the district or institution granting the leave shall certify the granting or extension of leave to the Teachers' Retirement System. No leave for a period longer than one (1) year shall be recognized, but such leaves may be extended annually for a total not to exceed three (3) years.

Section 2. Contributions for a period of leave shall be based on the annual salary for the last year of active service at the contribution rate in effect for the period of leave. Interest at the rate of six (6) percent per annum shall be added for contributions paid after the end of the school year for which the leave was granted, *except that contributions made on the basis of KRS 161.545(2) shall have interest added at the rate of three (3) percent*

compounded annually from the end of the school year for which the leave was granted to date of payment.

Section 3. A leave of absence shall not be recognized by the Teachers' Retirement System as a basis for making contributions to the system unless the member was employed in a covered position as defined in KRS 161.220(22), by the employer granting the leave, and received compensation for at least one-half (1/2) a regular school year during the year the leave was granted or during the next preceding school year.

PAT N. MILLER, Executive Secretary

ADOPTED: September 20, 1976

RECEIVED BY LRC: September 24, 1976 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Executive Secretary, Teachers' Retirement System, 216 West Main Street, Frankfort, Kentucky 40601.

SECRETARY OF THE CABINET
Kentucky Teachers' Retirement System
(Proposed Amendment)

102 KAR 1:120. Voluntary contributions.

RELATES TO: KRS 161.705

PURSUANT TO: KRS 13.082, 161.310

NECESSITY AND FUNCTION: KRS 161.705 provides that members of the Teachers' Retirement System may make voluntary contributions in excess of the mandatory contributions to the retirement system in order to qualify for additional annuity payments at the time of retirement. This regulation sets out procedures for receiving such contributions and the payment of additional annuities.

Section 1. Interest credited to voluntary accounts made by teachers and boards of education under authority of KRS 161.705, shall be fixed annually by the board of trustees. At the last regular quarterly meeting of the fiscal year, the board of trustees shall fix the interest rate to be credited for the following fiscal year.

Section 2. It is further provided that the board of trustees may not fix a rate lower than "regular interest" as defined in KRS 161.220(13) nor at a rate greater than the average annual yield rate on the "fixed dollar" investments of the retirement system for the previous four (4) quarters. Interest shall be calculated and posted at the end of each month with interest being based on the accumulated balance at the beginning of the month concerned, less any withdrawals made during that month.

Section 3. In the case of withdrawal or death of the member prior to retirement, the accumulated unmatched voluntary account shall be returned to the named beneficiary or estate as provided in KRS 161.705. If the employer has made contributions for the benefit of a member, such contributions shall be paid to the named beneficiary or the member's estate, except that a refund to the employer shall be made if provided for under an agreement between the member and employer.

Section 4. Any member who has made voluntary "non-tax deferred" contributions under the provisions of KRS 161.705 may withdraw all or a part of said account,

provided that no more than three (3) partial withdrawals may be approved. Voluntary tax-deferred contributions may be withdrawn, without penalty, in the event of death, disability, retirement, or upon attainment of age sixty (60) years. Following retirement under the regular retirement system, the member may choose any of the retirement options which may be selected for the regular retirement annuity or payment through no more than two (2) lump sum withdrawals. The member may defer payments from this account beyond the regular retirement date, but shall be limited to the option set out above upon electing to receive benefit payments.

Section 5. Withdrawals of a "tax-deferred" contribution, except for death, disability, retirement, or upon attainment of age sixty (60) years shall be subject to a penalty equal to the interest credited on such amounts during the three (3) months preceding such withdrawal. In order to avoid the deduction of interest as stated above the person making the withdrawal must file with the retirement system an affidavit setting out that the reason for withdrawal meets one or more of the exceptions listed above.

PAT N. MILLER, Executive Secretary

ADOPTED: September 20, 1976

RECEIVED BY LRC: September 24, 1976 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Executive Secretary, Teachers' Retirement System,
216 West Main Street, Frankfort, Kentucky 40601.

SECRETARY OF THE CABINET
Kentucky Teachers' Retirement System
(Proposed Admendment)

102 KAR 1:130. Additional contributions.

RELATES TO: KRS 161.220, 161.555

PURSUANT TO: KRS 13.082, 161.310

NECESSITY AND FUNCTION: KRS 161.220(4)(f) and 161.555 provide that agencies employing members of the Teachers' Retirement System and whose salaries are paid from federal project funds or from non-public funds, shall make additional contributions to the system equal to the contributions of such members. This regulation sets out the manner of transmitting these additional contributions to the system.

Section 1. Agencies, boards, and other organizations employing members of the Teachers' Retirement System referred to in KRS 161.220 (4)(f) [(7)] and 161.555 shall make contributions to the Teachers' Retirement System in an amount equal to the total contributions of such members. Contributions of both the member and employer shall be forwarded to the Teachers' Retirement System in the same manner and at the same time as provided in KRS 161.560 for regular contributions to the Teachers' Retirement System.

Section 2. Members employed by employers referred to in Section 1 may make contributions for part-time, substitute, and partial year's service as provided in Teachers' Retirement System regulations for other

members of the Teachers' Retirement System. Employers would be required to make additional contributions for these employees in the same manner as provided for full-time employees.

Section 3. Members employed by employers referred to above may make contributions while on leave of absence as set out in the statutes and Teachers' Retirement System regulations, providing the employer or the employee makes an additional contribution equal to the regular member contribution for the period of time covered by such leave of absence.

PAT N. MILLER, Executive Secretary

ADOPTED: September 20, 1976

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SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Executive Secretary, Teachers' Retirement System,
216 West Main Street, Frankfort, Kentucky 40601.

SECRETARY OF THE CABINET
Kentucky Teachers' Retirement System
(Proposed Amendment)

102 KAR 1:185. Reciprocal program between CERS, KERS, SPRS, and TRS.

RELATES TO: KRS 61.552, 61.680, 161.706

PURSUANT TO: KRS 13.082, 161.310

NECESSITY AND FUNCTION: KRS 61.552, 61.680 and 161.706 set out a broad program of reciprocity among the various retirement systems administered under provisions of KRS Chapters 61 and 161. This regulation defines in detail the benefits to be provided and the administrative procedures to be followed in arriving at the appropriate payments to be made to eligible persons.

Section 1. Administrative procedures applying to members having creditable service in County Employees Retirement System, Kentucky Employees Retirement System, or State Police Retirement System, and Teachers' Retirement System. Upon death, disability or service retirement the following procedure shall be applicable to a member having an account in more than one (1) retirement system:

- (1) Combine the member's service in all systems.
- (2) Determine eligibility in each system based on combined service.
- (3) If eligible in any system, determine benefits.
- (4) Check for specific exceptions such as prior service, request for separate account or special death or disability exception.

Section 2. Service Retirement Benefits. (1) A member eligible to retire who elects service retirement from one (1) system, shall be paid from all systems in which he has an account unless he requests that his accounts be separated.

(2) The "final average salary" will be calculated by using the five (5) highest annual salaries regardless of the system under which the service was covered. Calculations will be based on the procedures in use by each system concerned.

(3) Each system will determine benefit payments on

the basis of the final average salary and service credited in that system. Payments will be made by each system in accordance with its usual procedures, except where the normal age requirement has not been met, benefits shall be actuarially reduced.

(4) The member will not be required to elect the same retirement option in both systems. Each annuity option will apply only to the system for which it is elected.

(5) A member may elect to have each system treat his service credit in that system without regard to any other service credit, by requesting that his accounts be separated. In this case, "final average salary" would be based on the salaries earned under each system separately.

(6) The minimum annuity of fifty-five dollars (\$55) per month provided in KRS 161.620 shall not apply to persons retiring with less than five (5) years service in the Teachers' Retirement System.

Section 3. Disability Retirement Benefits. (1) If a member qualifies for disability benefits based on the service in the system in which he is currently a contributing member, then he will receive disability benefits from that system based on the formula used by that system and other system(s) will pay:

(a) Benefits based on separate accounts should the member elect to maintain separate accounts, or

(b) An actuarial accrued benefit based on the member's age, service, and final compensation, if eligible for such benefit, or

(c) A refund if requested by the member.

(2) If the combined service in two (2) or more systems is used to qualify a member for benefits, all systems under which the combined service would meet service requirements would participate in benefit payments. Each system would calculate benefits using the formula in effect in that system. TRS would pay benefits during the eligibility period in proportion to the service in TRS as it relates to total combined service. After the expiration of the eligibility period, the benefit would be recalculated on the basis of TRS service without discount.

(3) If the combined service of a member meets service requirements in only one (1) system then that system only pays benefits under their disability formula and the other system pays as outlined under subsection (1)(a) to (c) above.

(4) The medical requirements for disability benefits will be those of the system to which the member is currently contributing, if combined service meets service requirements of that system. If service requirements are met in only one (1) system, the medical requirements of that system will prevail regardless of current employment in another system.

Section 4. Death and Survivor Benefits. (1) An active member with TRS service who has not qualified for TRS service retirement at time of death would have death and survivor benefit coverage as follows:

(a) A TRS member currently employed in a position covered by the TRS would have full coverage for benefits provided by KRS 161.520 and KRS 161.655 without

regard to service in any other system.

(b) A TRS member currently employed in a position covered by CERS, KERS, or SPRS would qualify for coverage in proportion to the service in TRS as it relates to total combined service.

(c) Service in either of the four (4) systems concerned would serve to continue coverage under TRS if member was covered at the termination of employment under TRS and did not withdraw his account with TRS. Such coverage would continue until such time as the member became eligible for death and/or survivor benefits in the system under which he is currently employed.

(2) An active member with TRS service who has qualified for service retirement at time of death would have coverage for death and survivors benefits as follows:

(a) If the member had sufficient TRS service to qualify for retirement on that service only, full benefits would be payable to qualified survivors as provided in KRS 161.520, 161.525 and 161.655. The annuity portion would be calculated as provided in KRS 61.680 and actuarially adjusted for age and sex of the eligible survivor.

(b) If the member qualified for retirement only on the basis of combined service, the benefits under KRS 161.520 and 161.655 would be paid in the same proportion as the TRS service was to total combined service. The annuity portion would be calculated as provided in subsection (2)(a) above.

Section 5. Reinstatement of Withdrawn Account. A former member of TRS who has withdrawn his account and last service credit may reinstate his account and service credit under TRS provided:

(1) He is a contributing member to either CERS, KERS, or SPRS;

(2) Has contributing service under any of the three (3) systems equal to two (2) years or the number of years subsequent to withdrawal of contributions, whichever is the lesser number, and obtains six (6) months additional service in either CERS, KERS, or SPRS after payment of recontribution; and

(3) If Prior Service is involved the member must have one (1) or more years contributing service in TRS subsequent to July 1, 1941.

Section 6. Military Service. A member having valid service credit in more than one (1) of the retirement systems may elect to purchase retirement credit for active duty time in one (1) system; or he may divide the service credit between two (2) systems. If service is to be divided the following additional requirements must be met:

(1) The total military service credit in all systems may not exceed six (6) years.

(2) The same years active duty may not be used in more than one (1) system.

(3) Each system will calculate the costs of such military retirement credit in keeping with the statutes and regulations of that system.

Section 7. Medical Insurance Coverage. TRS members qualifying for retirement on combined service, but hav-

ing less than five (5) years' service in TRS shall not be included for coverage under the TRS Hospital-Medical Insurance Program.

Section 8. Actuarial Factors to be Applied. Where a person is entitled to an actuarially reduced benefit due to failure to meet age requirements for normal retirement, the actuarial discount shall be three percent (3%) for each year the member is less than normal retirement age *as provided in KRS 161.620(1)(c), and five percent (5%) per year of age less than sixty (60) years of age or the service credit is less than thirty (30) years as provided in KRS 161.620(1)(d).*

PAT N. MILLER, Executive Secretary

ADOPTED: September 20, 1976

RECEIVED BY LRC: September 24, 1976 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Executive Secretary, Teachers' Retirement System,
216 West Main Street, Frankfort, Kentucky 40601.

SECRETARY OF THE CABINET
Kentucky Teachers' Retirement System
(Proposed Amendment)

102 KAR 2:010. Election of chairperson; vice-chairperson.

RELATES TO: KRS 161.340

PURSUANT TO: KRS 13.082, 161.310

NECESSITY AND FUNCTION: KRS 161.340 provides for the annual election of a chairperson and vice-chairperson for the board of trustees. This regulation sets the time for such election.

Section 1. At the last meeting of the fiscal year (the fourth quarter meeting) the board of trustees shall elect a *Chairperson* [Chairman] and *Vice-Chairperson* [Vice-Chairman] for the succeeding fiscal year.

PAT N. MILLER, Executive Secretary

ADOPTED: September 20, 1976

RECEIVED BY LRC: September 24, 1976 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Executive Secretary, Teachers' Retirement System,
216 West Main Street, Frankfort, Kentucky 40601.

SECRETARY OF THE CABINET
Department of Revenue
(Proposed Amendment)

103 KAR 1:010. Protests and appeals.

RELATES TO: KRS 131.110, 131.340, 131.345, 131.360, 131.365, 131.370, 139.760, 139.980(4)

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: This regulation summarizes significant portions of the statutes dealing with taxpayer protest and appeal rights and outlines procedures to facilitate the filing, processing and disposition of such

protests and appeals. *It is amended to include the Kentucky Supreme Court.*

Section 1. Protest-Assessments: (1) Taxpayers will be notified of additional tax assessments by mail. Payment including interest from the original due date, in the absence of protest, must be made within thirty (30) days from the date of the notice of tax due.

(2) A written protest may be filed by the taxpayer, or other persons representing the taxpayer, against additional assessments. The protest shall be filed with the Department of Revenue within thirty (30) days from the date of notice.

(3) A hearing may also be requested. The taxpayer may appear in person or by representative. If a taxpayer is not present in person, or if a corporation is not represented by an authorized officer, the department may require the taxpayer's representative to furnish evidence of his authority to act for the taxpayer. Consideration will be given to additional information presented in the protest and at hearings and the additional assessment may be adjusted accordingly.

Section 2. Protests-Refund Denials: (1) Taxpayers will also be notified by mail of disallowance or partial disallowance of any refund claim including a refund requested upon any return.

(2) A taxpayer may protest such disallowance or partial disallowance by written protest filed with the division director, Department of Revenue within thirty (30) days of the disallowance. Procedures governing protests and hearings for refunds are the same as for assessments.

Section 3. Final Ruling: If the taxpayer's protest of an assessment or refund denial cannot be resolved through correspondence and/or conferences with officials of the Department of Revenue and he desires to exercise his rights of further appeal, a final ruling will be issued by the Department of Revenue. The final ruling shall be given to the taxpayer over the signature of the director of the division administering the tax with the approval of the Commissioner of Revenue.

Section 4. Appeal-Kentucky Board of Tax Appeals. (The following procedure is prescribed by rules and regulations of the board.): (1) If a taxpayer desires to appeal a final ruling of the department he may, within thirty (30) days from the date of such ruling, apply for a hearing before the Kentucky Board of Tax Appeals. The appeal:

- (a) Must be filed in duplicate;
- (b) Must contain a brief statement of the law and facts in issue;
- (c) Must state the petitioner's position regarding the law, facts, or both;
- (d) Must contain a copy of the final ruling of the department; and
- (e) May contain a request for hearing.

(2) The board will set a date for a formal hearing. The hearing procedure before the board will be in accordance with the board's rules.

(3) On the basis of the hearing, briefs, and other documents, the board will issue a written order which will affirm, reverse, modify or remand the final ruling, and will forward a copy of the order to the taxpayer and the department. Assessments upheld by the board shall be due and payable thirty (30) days after the date of the board's order. In the absence of appeal, penalties for failure to pay

tax when due apply if payment is not made within thirty (30) days after the date of the board's order.

(4) Interest from the original due date of the return until the tax is paid shall be added to the additional assessments.

Section 5. Appeal-Circuit Court: Any party aggrieved by a final order of the Kentucky Board of Tax Appeals, may, within thirty (30) days after such order becomes final, file a petition of appeal on any question of law to the Franklin Circuit Court or to the circuit court of the county in which the aggrieved party resides or conducts his business. A copy of the petition of appeal shall be filed with the board and all other parties against whom the appeal is prosecuted.

Section 6. Appeal-Kentucky Court of Appeals and Kentucky Supreme Court: Any party may appeal to the Kentucky Court of Appeals and to the Kentucky Supreme Court under rules provided by those courts [as provided in the Rules of Civil Procedure].

MAURICE P. CARPENTER, Commissioner

ADOPTED: October 14, 1976

RECEIVED BY LRC: October 14, 1976 at 10:15 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Commissioner, Department of Revenue, Capitol Annex, Frankfort, Kentucky 40601.

SECRETARY OF THE CABINET

Department of Revenue
(Proposed Amendment)

103 KAR 15:040. Statute of limitations; assessments and refunds.

RELATES TO: KRS 141.210, 141.235

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: This regulation summarizes and explains provisions of income tax law pertaining to time limitations on assessments of additional taxes and the granting of tax refunds. *It is amended to show the increased interest enacted by the 1976 General Assembly.*

Section 1. Assessments. Additional income tax may be assessed within four (4) years from the due date of return, the extended due date, or the filing date of a late return. Exceptions are provided below and in Section 2. If returns are not filed, or if fraudulent returns are filed, additional tax may be assessed at any time.

(1) Individuals. Additional tax may be assessed within six (6) years after the return was due or filed if an individual understates net income by twenty-five (25) percent, or omits from taxable net income at least twenty-five (25) percent of taxable net income reported.

(2) Corporations. Additional tax may be assessed within six (6) years after the return was due or filed if the corporation understates its taxable net income by twenty-five (25) percent, or omits from taxable net income at least twenty-five (25) percent of taxable net income reported.

Section 2. Agreements. The period for assessment and

refund may be extended by written agreement between the department and the taxpayer before the statutory limitation expires, and may be further extended by additional agreements. Any agreement extending the time for assessment specifically extends the time for refund or credit notwithstanding the limitation in Section 3.

Section 3. Refunds. (1) Limitation. The department may authorize refunds or credits within three (3) years from the due date of the return or the date the tax was paid, whichever is later, on payments received before January 1, 1966. Payments received on or after January 1, 1966 may be refunded or credited within four (4) years from the due date of the return or the date the tax was paid, whichever is later. Interest at *eight (8)* [six (6)] percent per annum is paid only if the refund results from a clerical error by the department.

(2) Claim. A refund claim may be filed by letter or Revenue Form 40A713. A claim must contain:

- (a) The taxpayer's name, address, and form of organization whether individual, corporation, or fiduciary;
- (b) The calendar or fiscal year of the taxpayer;
- (c) Amount paid and date of payment;
- (d) The validation number if available;
- (e) The amount of refund requested;
- (f) A certification that taxpayer is not indebted to the Commonwealth for any taxes; and
- (g) The basis for the claim.

(3) A separate claim must be filed for each year, and an amended return may be required to support any claim. If any claim is denied, a protest may be filed with the Income Tax Division within thirty (30) days from notice of disallowance.

Section 4. Statutory Date. A return filed before the due date is considered filed on the due date for purposes of this regulation.

MAURICE P. CARPENTER, Commissioner

ADOPTED: October 14, 1976

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SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Commissioner, Department of Revenue, Capitol Annex, Frankfort, Kentucky 40601.

SECRETARY OF THE CABINET

Department of Revenue
(Proposed Amendment)

103 KAR 16:060. Income classification; business and nonbusiness.

RELATES TO: KRS 141.120

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: The Kentucky income tax law contains provisions for assigning to Kentucky the business income and nonbusiness income of multistate corporations. This regulation establishes criteria for classification of corporate income into its business and nonbusiness components. *It is amended to remove an obsolete reference to dividends which were exempted by the 1968 General Assembly.*

Section 1. General. If a corporation has income from

activities within Kentucky and within other states, the division of income and the resulting determination of the net income within Kentucky is determined by the allocation and apportionment provisions in KRS 141.120. Thus, the first step is to determine which portion of the entire net income constitutes "business income" and which portion constitutes "nonbusiness income." The various items of nonbusiness income are then directly allocated to each state pursuant to the provisions of KRS 141.120. Business income is divided among the states where the business is conducted based upon the property, payroll, and sales apportionment factors in KRS 141.120. The sum of: (i) nonbusiness income allocated to Kentucky, and (ii) business income attributed to Kentucky by the apportionment formula constitutes the amount of the corporation's entire net income which is subject to tax under KRS Chapter 141.

Section 2. The corporation shall classify income as business or nonbusiness income on a consistent basis. If the corporation is not consistent, it shall disclose in its Kentucky return the nature and extent of the inconsistency.

Section 3. The word "apportionment" generally refers to the division of net income among states by the formula containing apportionment factors, and the word "allocation" generally refers to assignment of net income to a state.

Section 4. Business and Nonbusiness Income: Definitions. "Business income" is income arising from transactions and activities in the regular course of the corporation's trade or business and includes income from tangible and intangible property if its acquisition, management, or disposition constitute integral parts of the regular trade or business operations. The business income is the portion of the corporation's entire net income which arises from trade or business operations. "Net income" is business income unless it is clearly classified as nonbusiness income under KRS 141.120 and related regulations. "Nonbusiness income" means all income other than business income.

Section 5. Business and Nonbusiness Income: Application of Definitions. Income classification by the customary labels; such as, interest, rents, royalties, and capital gains does not determine whether income is business or nonbusiness. Gain or loss recognized on the sale of property, for example, may be business income or nonbusiness income depending upon the relation to the corporation's trade or business. The following are rules and examples for determining whether a particular type of income is business or nonbusiness income:

(1) Rents and Royalties; Real and Tangible Personal Property. Rental and royalty income from real and tangible property is business income if the rental or lease of such property is a principal business activity or the rental or lease of the property is related to or incidental to the principal business activity.

(a) Example: The corporation operates a multi-state car rental business. The income from car rentals is business income since it is the corporation's principal business.

(b) Example: The corporation is in the heavy construction business and it uses equipment such as cranes, tractors, and earth moving vehicles. The corporation makes short-term leases of the equipment when particular pieces

of equipment are not needed on a project. The rental income is business income.

(c) Example: The corporation operates a multi-state chain of men's clothing stores. It purchases a five-story office building primarily for use in its principal business. It uses the street floor as one of its retail stores and the second and third floors for its general corporate headquarters. The remaining two (2) floors are leased to others. The rental income is business income.

(d) Example: The corporation operates a multi-state chain of men's clothing stores. It invests in a twenty-story office building and uses the street floor as one of its retail stores and the second floor for its general corporate headquarters. The remaining eighteen (18) floors are leased to others. The net rental income is nonbusiness income.

(e) Example: The corporation operates a multi-state chain of grocery stores and purchases, as an investment, an office building in another state with surplus funds and leases the entire building to others. The net rental income is nonbusiness income.

(f) Example: The corporation constructed a plant in 1930 as a part of its multi-state manufacturing business. On June 30, 1970, the plant was closed and put up for sale. The plant was rented from July 1, 1970, until sold in November, 1971. The rental income is business income and the gain on the sale of the plant is business income.

(g) Example: The corporation operates a multi-state chain of grocery stores. It owned an office building which is occupied as its corporate headquarters. Because of inadequate space, it acquired a new and larger building for its corporate headquarters. The old building was rented to an investment company under a five-year lease. Upon expiration of the lease, the building was sold at a gain (or loss). The rental income received over the lease period is nonbusiness income and the gain (or loss) on the sale of building is nonbusiness income.

(h) Example: The corporation is engaged in extracting natural resources. The corporation owns and operates or leases and operates mines or wells which are located in several states. For various reasons, the corporation ceases actual operation of the properties and leases or subleases mineral rights to others. Royalties are paid to the corporation by the operators based on units extracted. The royalty income is business income.

(i) Example: The corporation is engaged in lumber and related wood products business in various states. The corporation owns or leases timberlands which are used as raw materials for its lumber business. Some of the land is unsuitable and the corporation leases or subleases mineral rights to other parties. Royalties are paid to the corporation based on units extracted. The royalty income is business income.

(j) Example: The corporation acquires undeveloped land for future expansion of its multi-state manufacturing business. The expansion plans are later discarded and mineral rights under the land are leased to others. The corporation receives royalties based on units extracted. The royalty income is nonbusiness income.

(2) Gains or Losses from Sale of Assets. As a general rule, gain or loss from the sale, exchange or other disposition of real, tangible, or intangible personal property is business income if the property was used by the corporation to produce business income. However, the gain or loss is nonbusiness income if the property was later utilized principally for the production of nonbusiness income or otherwise was removed from the property factor:

(a) Example: In conducting its multi-state manufacturing business, the corporation systematically replaces automobiles, machines, and other equipment. The gains or losses resulting from those sales are business income.

(b) Example: The corporation constructed a plant in 1930 as a part of its multi-state manufacturing business. In 1971 the property is sold at a gain while it is in operation by the corporation. The gain is business income.

(c) Example: Same as above except that the plant is closed on June 30, 1970, and put up for sale but was not sold until November, 1971. The gain is business income.

(d) Example: Same as above except that the plant was rented from July 1, 1970, until sold in November, 1971. The rental income is business income and the gain on the sale of the plant is business income.

(e) Example: The corporation operates a multi-state chain of grocery stores. It owned an office building which is occupied as its corporate headquarters. Because of inadequate space, taxpayer acquired a new and larger building for its corporate headquarters. The old building was rented to an investment company under a five-year lease. Upon expiration of the lease, the building was sold at a gain (or loss). The gain (or loss) is nonbusiness income and the rental income received over the lease period is nonbusiness income.

(3) Interest. Interest income is business income if the intangible which earned the interest arises out of or was created by a business activity of the corporation and when the purpose for acquiring the intangible is directly related to the business activity.

(a) Example: The corporation operates a multi-state chain of department stores, selling for cash and on credit. Service charges, interest, or time-price differentials are received with installment sales and revolving charge accounts. The interest income is business income.

(b) Example: The corporation operates a multi-state manufacturing business. The taxpayer receives a federal income tax refund and collects a judgment against the debtor. Both the tax refund and the judgment bore interest. The interest income is business income.

(c) Example: The corporation operates a multi-state manufacturing and wholesaling business. It maintains special accounts to cover such items as workmen's compensation claims, rain and storm damage, machinery replacement, etc. The funds in those accounts are invested at interest. Similarly, the corporation temporarily invests funds intended for payment of federal, state and local tax obligations. The interest income is business income.

(d) Example: The corporation operates a multi-state money order and traveler's check business. In addition to the fees received from selling money orders and traveler's checks, the corporation earns interest income by investing the funds pending their redemption. The interest income is business income.

(e) Example: The corporation operates a multi-state manufacturing and selling business. It usually has working capital and extra cash totaling \$200,000 which it regularly invests in short-term interest-bearing securities. The interest income is business income.

(f) Example: In January the corporation sold all the stock of a subsidiary for \$20,000,000. The funds are placed in a separate interest-bearing account pending a decision by management as to how the funds are to be utilized. The interest income is nonbusiness income.

[(4) Dividends. Dividend income is business income when dealing in securities is a principal business activity of

the corporation. Most other dividends are nonbusiness income.]

[(a) Example: The corporation operates a multi-state chain of stock brokerage houses. During the year the corporation receives dividends on stock it owns for purposes of making a market in that stock. The dividend income is business income.]

[(b) Example: The corporation is engaged in a multi-state manufacturing and wholesaling business. In connection with that business the corporation maintains special accounts to cover such items as workmen's compensation claims, etc. A portion of the monies in those accounts is invested in interest-bearing bonds. The remainder is invested in various common stocks listed on the national stock exchanges. Both the interest and any dividends are business income.]

[(c) Example: The parent owns all the stock of a subsidiary corporation which is engaged in a business similar to that of the parent. Any dividends received from the subsidiary are nonbusiness income.]

(4) Dividends. [(5) Note:] Dividends received after December 31, 1969, are excluded from Kentucky gross income by an amendment to KRS 141.010.

(5) [(6)] Patent and Copyright Royalties. Patent and copyright royalties are business income if the patent or copyright was created or used as an integral part of the corporation's principal business.

(a) Example: The corporation operates a multi-state business of manufacturing and selling industrial chemicals. In connection with that business, it obtained patents on certain of its products. It licensed the production of those products in foreign countries, and receives royalties. The royalties are business income.

(b) Example: The corporation operates a music publishing business and holds copyrights on numerous songs. The corporation acquires the assets of a small publishing company, including music copyrights. These acquired copyrights are then used in its business. Any royalties received on these copyrights are business income.

(c) Example: Same as last example, except that the acquired company also held the patent on a type of phonograph needle. The corporation does not manufacture or sell phonographs or phonograph equipment. Any royalties received on the patent are nonbusiness income.

Section 6. Proration of Deductions. Any allowable deduction, that applies to both business and nonbusiness income or to more than one "trade or business," shall be prorated to those classes of income or trades or businesses by a formula prescribed by the department.

MAURICE P. CARPENTER, Commissioner

ADOPTED: October 14, 1976

RECEIVED BY LRC: October 14, 1976 at 10:15 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Commissioner, Department of Revenue, Capitol Annex, Frankfort, Kentucky 40601.

SECRETARY OF THE CABINET
Department of Revenue
(Proposed Amendment)

103 KAR 16:070. Apportionment; sales factor.

RELATES TO: KRS 141.120

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: KRS 141.120 (8) [(9)] requires that all business income of multi-state corporations be apportioned to Kentucky by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor and the denominator of which is three (3). This regulation provides detailed guidelines for determining the sales factor of a multi-state corporation. *It is amended to reflect 1976 General Assembly amendments and to remove material made obsolete by 1974 amendments.*

Section 1. General. (1) KRS 141.120(l)(g) defines "sales" to mean all gross receipts not allocated under subsections (3) [(4)] through (7) [(8)] of KRS 141.120. Thus, for the purposes of the sales factor, the term "sales" generally means all gross receipts derived by a corporation from transactions and activities in the course of its regular trade or business operations which produce business income.

(2) In the case of a corporation whose business activity consists of manufacturing and selling or purchasing and reselling goods or products, "sales" includes all gross receipts from the sale of goods or products (or other property which would properly be included in inventory if on hand at the close of the taxable year) held by the corporation primarily for sale in the ordinary course of its trade or business. Gross receipts for this purpose means gross sales, less returns and allowances, and includes all interest income, service charges, carrying charges, or time-price differential charges incidental to such sales. Federal and state excise taxes (including sales taxes) shall be included as part of such receipts if such taxes are passed on to the buyer or included as part of the selling price of the product.

Section 2. General Business Operations. (1) The term "sales," as a general rule, also includes gross receipts derived from business transactions or activities which are incidental to the principal business activity and which are includible in business income. However, substantial amounts of gross receipts from an incidental or occasional sale of a fixed asset, used in the taxpayer's regular trade or business, will be excluded from the sales factor since the inclusion of such gross receipts will not fairly apportion to Kentucky the income derived from business activity in Kentucky. For example, gross receipts from the sale of a factory or plant will be excluded. Conversely, the inclusion in the sales factor of insubstantial amounts of gross receipts arising from incidental or occasional transactions or activities may not materially affect the income fairly attributable to the business conducted in Kentucky. A corporation may include or exclude the gross receipts from such transactions as the sale of office furniture, business automobiles, etc.

(2) If a corporation regularly derives receipts from the sale of equipment used in its business, they are included in the sales factor. For example, a truck express company owns a fleet of trucks and sells its trucks under a regular replacement program. The gross receipts from the sales of the trucks are included in the sales factor.

(3) In including or excluding gross receipts, the corporation shall be consistent in the treatment of such gross receipts in filing returns or reports to all states to which the taxpayer reports. In the event the corporation is not consistent in its reporting, it shall disclose in its Kentucky return the nature and extent of the inconsistency.

Section 3. Sales in Other Business Activities. As applied to a corporation engaged in business activity, other than the manufacturing and selling or purchasing and reselling of property, "sales" include gross receipts from the corporation's business activity:

(1) If business activity consists of providing services, such as the operation of an advertising agency, the performance of equipment service contracts, or research and development contracts; "sales" includes gross receipts from the performance of such services including fees, commissions, and similar items.

(2) In the case of cost plus fixed fee contracts, such as the operation of a government-owned plant for a fee, gross receipts includes the entire reimbursed cost, plus the fee.

(3) If the business activity is renting of real or tangible personal property, "sales" includes the gross receipts from the rental, lease, or licensing of the property.

(4) If the business activity is the sale, assignment, or licensing of intangible personal property such as patents and copyrights, "sales" includes the gross receipts therefrom.

Section 4. Sales Factor: Numerator. The numerator of the sales factor will generally include the gross receipts from sales which are attributable to Kentucky, and includes all interest income, service charges, carrying charges, or time-price differential charges incidental to such sales regardless of where the accounting records are maintained or the location of the contract or other evidence of indebtedness.

Section 5. Assignment of Sales of Tangible Personal Property to Kentucky. (1) Gross receipts from sales of tangible personal property (except sales to the United States Government) are in Kentucky if the [:

(a) The] property is delivered or shipped to a purchaser within Kentucky regardless of the f.o.b. point or other conditions of sale. [; or

(b) the property is shipped from an office, store, warehouse, factory, or other place of storage in Kentucky and the corporation is not taxable in the state of the purchaser. Note: Receipts from sale of property shipped from Kentucky to a state where taxpayer is not taxable are excluded from Kentucky sales for taxable years beginning after December 31, 1973. (1974 General Assembly amendment to KRS 141.120)]

(2) *Gross receipts from the sales of tangible personal property to the United States Government are in Kentucky if the property is shipped from an office, store, warehouse, factory, or other place of storage in Kentucky. Only sales for which the United States Government makes direct payment to the seller, pursuant to the terms of its contract, constitute sales to the United States Government. Thus, as a general rule, sales by a subcontractor to the prime contractor, the party to the contract with the United States Government, do not constitute sales to the United States Government.*

(a) *Example: A corporation contracts with General Services administration to deliver trucks which were paid*

for by the United States Government. The United States Government is the purchaser.

(b) Example: The corporation is a subcontractor and contracts to build a component of a rocket for \$1,000,000. The sale by the subcontractor to the prime contractor is not a sale to the United States Government. When the United States Government is the purchaser of property which remains in the possession of the corporation in Kentucky for further processing under another contract, or for other reasons, "shipment" is deemed to be made when the property is accepted by the United States Government.

(3) [(2)] Property shall be deemed to be delivered or shipped to a purchaser within Kentucky if the recipient is located in Kentucky, even though the property is ordered from outside Kentucky. Example: The corporation, with inventory in State A, sold \$100,000 of its products to a purchaser with branch stores in several states including Kentucky. The purchase order was placed by the purchaser's central purchasing department located in State B. Twenty-five thousand dollars of the purchase order was shipped directly to purchaser's branch store in Kentucky. The branch store in Kentucky is the "purchaser within this state" with respect to \$25,000 of the corporation sales.

(4) [(3)] Property is delivered or shipped to a purchaser in Kentucky if the shipment terminates in Kentucky, even though the property is later transferred by the purchaser to another state. Example: The corporation makes a sale to a purchaser who maintains a central warehouse in Kentucky where all merchandise purchases are received. The purchaser reships the goods to its branch stores in other states for sale. All products shipped to the purchaser's warehouse in Kentucky are [is] property "delivered or shipped to a purchaser within this state."

(5) [(4)] The term "purchaser within this state" includes the ultimate recipient of the property if the corporation in Kentucky, at the designation of the purchaser, delivers to or has the property shipped to the ultimate recipient in Kentucky. Example: A corporation in Kentucky sold merchandise to a purchaser in State A. The corporation directed the manufacturer of the merchandise in State B to ship the merchandise to the purchaser's customer in this state pursuant to purchaser's instruction. The sale by the corporation is "in this state."

(6) [(5)] When property being shipped by a seller from the state of origin to a consignee in another state is diverted while enroute to a purchaser in Kentucky, the sales are in Kentucky. Example: The corporation, a produce grower in State A, begins shipment of perishable produce to the purchaser's place of business in State B. While enroute the produce is diverted to the purchaser's place of business in Kentucky where the corporation is subject to tax. The sale by the corporation is assigned to Kentucky.

[(6) If the corporation is not taxable in the state of the purchaser, the sale is attributed to Kentucky if the property is shipped from an office, store, warehouse, factory, or other place of storage in Kentucky.]

[(a) Example: The corporation has its head office and factory in State A. It maintains a branch office and inventory in Kentucky. The only activity in State B is the solicitation of orders by a resident salesman. All orders by the State B salesman are sent to the branch office in Kentucky for approval and are filled by shipment from the inventory in Kentucky. Since the corporation is immune under P.L. 86-272 from income tax in State B, all sales of merchandise to purchasers in State B are attributed to Kentucky, the state from which the merchandise was shipped. Note: Receipts from sale of property shipped from

Kentucky to a state where taxpayer is not taxable are excluded from Kentucky sales for taxable years beginning after December 31, 1973. (1973 General Assembly amendment to KRS 141.120)]

(7) [If a corporation whose salesman operates from an office located in Kentucky makes a sale to a purchaser in another state in which the corporation is not taxable, and the property is shipped directly by a third party to the purchaser, the sale will be attributed to the state from which the property is shipped if the corporation is taxable in that state. If the corporation is not taxable in the state from which the property is shipped, then the property will be deemed to have been shipped from Kentucky and the sale is assigned to Kentucky.]

[(a) Example: The corporation in Kentucky sold merchandise to a purchaser in State A. The corporation is not taxable in State A. Upon direction of the corporation the merchandise was shipped directly to the purchaser by the manufacturer in State B. If the corporation is taxable in State B, the merchandise is deemed to have been shipped from State B to the purchaser in State A. If the corporation is not taxable in State B, the merchandise is deemed to have been shipped from Kentucky by the corporation to the purchaser in State A.] *Recaptured Sales.* [Note:] Receipts from sale of property shipped from Kentucky to a state where taxpayer is not taxable are excluded from Kentucky sales for taxable years beginning after December 31, 1973. (1974 General Assembly amendment to KRS 141.120.)

[Section 6. Sales to United States Government. (1) Gross receipts from the sales of tangible personal property to the United States Government are in Kentucky if the property is shipped from an office, store, warehouse, factory, or other place of storage in Kentucky. Only sales for which the United States Government makes direct payment to the seller, pursuant to the terms of its contract, constitute sales to the United States Government. Thus, as a general rule, sales by a subcontractor to the prime contractor, the party to the contract with the United States Government, do not constitute sales to the United States Government.]

[(a) Example: A corporation contracts with General Services administration to deliver trucks which were paid for by the United States Government. The United States Government is the purchaser.]

[(b) Example: The corporation is a subcontractor and contracts to build a component of a rocket for \$1,000,000. The sale by the subcontractor to the prime contractor is not a sale to the United States Government.]

[(2) When the United States Government is the purchaser of property which remains in the possession of the corporation in Kentucky for further processing under another contract, or for other reasons, "shipment" is deemed to be made when the property is accepted by the United States Government.]

Section 6. [7.] Sales Other Than Sales of Tangible Personal Property. (1) General. KRS 141.120(8) [(9)] (c) 3. includes gross receipts from sales, other than sales of tangible personal property, in the numerator of the sales factor. Under that section, gross receipts are assigned to Kentucky if the income producing activity which gave rise to the receipts is performed entirely in Kentucky. If the income producing activity is performed within and without Kentucky, receipts are attributed to Kentucky if the greater proportion of the income producing activity is performed in Kentucky, based on costs of performance.

(2) **Income Producing Activity; Defined.** The term "income producing activity" means the act or acts directly engaged in by the corporation for the ultimate purpose of obtaining gains or profit. Such activity does not include activities performed on behalf of a corporation, such as those conducted on its behalf by an independent contractor. Accordingly, the income producing activity includes but is not limited to the following:

(a) Personal services by employees or the use of tangible and intangible property in performing a service.

(b) The sale, rental, leasing, or licensing or other use of real property.

(c) The rental, leasing, licensing, or other use of tangible personal property.

(d) The sale or licensing of intangible personal property.

(3) **Income Producing Activity; Location.** The income producing activity is deemed performed at the situs of real, tangible and intangible personal property or the place where personal services are rendered. The situs of real and tangible personal property is at its physical location. The situs of intangible personal property is the corporation's commercial domicile unless the property has acquired a "business situs" in: (i) the place where intangible personal property is employed as capital; or (ii) the place where the property is located if possession and control of the property is localized in connection with a trade or business so that substantial use or value attaches to the property. Example: A corporation whose principal business activity is the manufacturing and sale of hot water heaters pledges bonds in Kentucky as security for the payment of taxes in connection with its business activities in Kentucky. The property has a business situs in Kentucky, therefore, interest income from such bonds is attributable to Kentucky.

(4) **Costs of Performance Defined.** The term "cost of performance" means direct costs determined consistent with generally accepted accounting principles and in accordance with accepted conditions or practices in the trade or business of the corporation.

(5) **Assignment of Sales:**

(a) If receipts from sales, other than sales of tangible personal property, do not constitute a principal source of business income and such receipts are included in the denominator of the receipts factor, these receipts are in Kentucky if:

1. The income producing activity is performed wholly within Kentucky; or

2. The income producing activity is performed both in and outside of Kentucky and a greater proportion of the income producing activity is performed in Kentucky than in any other state, based on costs of performance.

a. Example: The corporation is engaged in the heavy construction business in which it uses cranes, tractors, and earth-moving vehicles. It makes short-term rentals of the equipment when not needed on any project. The corporation rented some of the equipment to X for three (3) weeks. The equipment was used by X for two (2) weeks in Kentucky and one (1) week in State Y. The direct costs in connection with the equipment during the rental period were \$500 weekly. Accordingly, the greater proportion of such costs was incurred in Kentucky. All of the rental receipts are business income and, for purposes of the sales factor, are included in the numerator.

b. Example: A corporation with commercial domicile in Kentucky manufactures and sells industrial chemicals. It owns patents on certain products. The corporation licensed production of the chemicals in foreign countries in return

for royalties which are a relatively minor amount of its income. The royalties are business income and, for purposes of the sales factor, are included in the numerator.

(b) Receipts from sales, other than sales of tangible personal property which constitute a principal source of business income, are attributed to Kentucky as follows:

1. Gross receipts from sale, lease, rental or other use of real property are in Kentucky if the real property is located in Kentucky.

2. Gross receipts from rental, lease, licensing or other use of tangible personal property shall be assigned to Kentucky if the property is in Kentucky during the entire period of rental, lease, license or other use. If the property is within and without Kentucky during such period, gross receipts attributable to Kentucky shall be based upon the ratio which the time the property was physically present or was used in Kentucky bears to the total time or use of the property everywhere during such period.

3. Gross receipts for the performance of personal services are attributable to Kentucky to the extent such services are performed in Kentucky. If the services are performed partly within and without Kentucky, such receipts shall be attributed to Kentucky based upon the ratio which the time spent in performing such services in Kentucky bears to the total time spent in performing such services everywhere. Time spent in performing services includes time spent in performing contracts or other obligations which gave rise to such gross receipts. Personal service not directly connected with the performance of the contract or other obligation; such as, time spent in negotiating the contract is excluded from the computations.

a. Example: The corporation, a road show, presents theatrical performance at various locations in State X and in Kentucky during the taxable year. All gross receipts from performances presented in Kentucky are attributed to Kentucky.

b. Example: The corporation, a public opinion survey corporation conducted a poll by its employees in State S and in Kentucky for \$9,000. The project required 600 man hours to obtain the basic data and prepare the survey report. Two hundred of the 600 man hours were spent in Kentucky. The receipts attributable to Kentucky are \$3,000 (200 man hours divided by 600 man hours times \$9,000).

4. Gross receipts from intangible personal property shall be attributed to Kentucky based upon the ratio which the total property and payroll factors in Kentucky bears to the total of the property and payroll factors everywhere for the taxable year.

5. This regulation shall also apply to sales, other than sales of tangible personal property, to the United States Government.

MAURICE P. CARPENTER, Commissioner

ADOPTED: October 14, 1976

RECEIVED BY LRC: October 14, 1976 at 10:15 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Commissioner, Department of Revenue, Capitol Annex, Frankfort, Kentucky 40601.

**EXECUTIVE DEPARTMENT FOR
FINANCE AND ADMINISTRATION
Board of Hairdressers and Cosmetologists
(Proposed Amendment)**

201 KAR 12:082. Schools' course of instruction.

RELATES TO: KRS 317A.090

PURSUANT TO: KRS 317A.050

NECESSITY AND FUNCTION: Schools must provide a course of instruction of 1,800 hours of student training. The curriculum prepares the individual for examination for the appropriate license.

Section 1. The regular courses of instruction for cosmetology students shall contain the following:

(1) Professional practices:

(a) The cosmetology profession:

1. Cosmetology vocabulary.
2. Brief history: how it began, and changes.
3. Ethics: ethics in a beauty salon; and salon conduct.

(b) Salon procedures:

1. Hygiene and good grooming: personal and public; personal characteristics; and responsibilities of the cosmetologists.

2. Professional attitudes and salesmanship: personality development; salesmanship and business management; customer relationship; and telephone personality.

3. Public relations and psychology: behavior; and proper image.

(c) Speciality services:

1. Facial treatments and make-up: facial treatment-make-up preparation; implements and supplies; procedure in giving a plain facial; purpose and effect of massage movements; facial cosmetics; special problems; eyebrow arching; and lash and brow dye.

2. Manicuring: purpose and effect; preparation; equipment; and procedures, including the following: plain manicure, oil manicure, removal of stains, repair work, hand and arm massage, buffing, application of lacquer, and application of artificial nails.

(2) Life sciences (general anatomy):

(a) Osteology: definition; and functions.

(b) Myology: definition; functions; and types.

(c) Neurology: definition; functions; types (motor and sensory); and principal nerves of the head, face and neck.

(d) Angiology: definition; composition of blood; and function of blood.

(e) Dermatology: structure of skin; functions of skin; appendages of skin; conditions of the skin; and lesions of the skin.

(f) Trichology: structure of hair; composition; blood and nerve supply; growth and regeneration; color, texture, elasticity, porosity; and conditions to be recognized.

(g) Nails: structure and composition; growth and regeneration; and irregularities.

(3) Physical sciences (chemistry and treatment):

(a) Chemistry:

1. Elements, compounds, and mixtures: properties of; acid and alkali; and chemistry of water.

2. Composition and uses of cosmetics: for the body; for the skin and face; and for the scalp and hair.

3. Chemistry of hair lightening.

4. Chemistry of hair coloring.

5. Chemical hair relaxing.

6. Chemistry of make-up.

7. Chemistry of facial treatments.

8. Chemistry of rinses: soaps and shampoos; and detergents.

9. Chemistry of cold waving.

- (b) Scalp and hair treatments: purpose and effects; preparation and procedure; use of cap; electricity and therapeutic ray; and safety rules.

- (c) Shampoos and rinses: importance of good shampoo; purpose of effects; required materials and implements; brushing and drying; types of shampoos; rinses (not colored); and composition.

- (d) Hair coloring: principal reasons for coloring; advantages of coloring; classifications of hair coloring; variation of products; procedures; and safety measures.

- (e) Hair lightening: types of lighteners; implements and supplies; procedure; special problems in hair lightening. fillers and toners; removal of aniline derivative tints; and tint back to natural coloring.

- (f) Cold waving: basic requirements; scalp and hair analysis; hair porosity; hair texture; hair elasticity; hair density; curling rods and chemicals; variation of permanent wave products; procedures; problems; and safety measures.

- (g) Sterilization and sanitation: definitions; importance; sterilization rules; and methods of sterilization.

(4) Hair designing or sculpturing:

- (a) Hair shaping: fundamentals of hair shaping; correct use of tools; designing and planning the hair cut; sectioning and thinning; razor and shear shaping; wig shaping; and safety precautions.

- (b) Hair styling: finger waving; pin curls; hair partings, artistry hair styling; dressing of the coiffure; special consideration in hair styling; chemical hair relaxing and styling; facial types; and hair pressing and types of hot-iron curling.

- (c) Care and styling of wigs: purpose; quality; types of wigs; ordering wigs; cleaning; shaping; tinting and color rinsing; setting; and safety precautions.

Section 2. Schools must teach the students of the various supplies and equipment used in the usual salon practices.

Section 3. Schools must have the following charts available for students' use:

- (1) Charts showing anatomy of muscles of face and neck with special reference to the direction of muscle fibers and function of muscle or groups of muscles;

- (2) Charts showing anatomy of nails.

Section 4. All students shall receive not less than 1,800 hours in clinical class work and scientific lectures with 450 minimum lecture hours for science and theory and 1,305 minimum clinic and practice hours; and forty-five (45) hours of Kentucky statutes and regulations.

Section 5. One (1) hour per week should be devoted to the teaching and explanation of the Kentucky law as set forth in KRS Chapter 317A and to the rules and regulations of the board.

Section 6. When permission of this board is given a student to enroll in a school for a special brush-up course in any of the following subjects, said student will be required to have a course of training of the following number of hours in the course or courses he or she desires to take:

- (1) Permanent waving, croquignole and spiral combination, and all wet curls, 100 hours.

(2) Manicuring, head and arm massage, and bleach, 100 hours.

(3) Marcelling and all iron curls, 100 hours.

(4) Facials, 125 hours.

(5) Hair coloring and bleaching, 150 hours.

(6) Scalp massage, 125 hours.

(7) Hair shaping, trimming, and thinning, 125 hours.

(8) Science, 100 hours.

(9) Hair dressing and styling, 150 hours.

Section 7. No school of cosmetology shall be granted a license to operate a school of cosmetology or annual renewal of license unless the following curriculum is maintained and taught.

(1) Curriculum for freshmen students:

(a) Theory and related theory class, 100 hours:

1. General theory, including Kentucky Cosmetology Law and rules and regulations adopted thereunder.

2. Clinical theory.

3. Lecturing theory.

(b) Clinical and related theory class (freshmen practice class on students or mannequins), 200 hours:

1. Cold waves.

2. Facials and make-up.

3. Complete "S" formations or complete fingerwaves.

4. Pincurl technique.

5. Hairshaping.

6. Hairstyling techniques.

7. Lash and brow tint.

8. Eyebrow arches.

9. Manicuring.

10. Scalp treatments.

11. Shampooing.

12. Hair coloring, bleaching, and rinsing (mixing and formulas).

13. Heat permanent.

14. Safety measures.

(2) Curriculum for junior and senior students.

(a) Theory and related theory class, 500 hours.

(b) Professional practices, life sciences (general anatomy), physical sciences (chemistry and treatment), hair designing or sculpturing, safety measures, Kentucky Cosmetology Laws and rules and regulations adopted thereunder.

(c) Clinical class, 1,000 hours:

1. Hair conditioning treatments.

2. Scalp treatments.

3. Hairshaping.

4. Shampoos.

5. Cold waves.

6. Chemical hair relaxing (permanent wave).

7. Complete "S" formations and complete fingerwaves.

8. Pincurl techniques.

9. Hairstyles.

10. Iron curling.

11. Hair coloring and toning.

12. Bleaches and frostings.

13. Facials and make-up.

14. Manicuring.

15. Lash and brow tints.

16. Eyebrow arches.

17. Color rinses (certified color).

18. Wiggery.

19. Professional ethics and good grooming.

20. Salesmanship.

21. Reception desk and telephone answering.

22. Record keeping.

23. Federal and state tax records.

24. Sales tax records.

25. Dispensary (procedures for ordering supplies and retail merchandise).

26. Personality development.

27. Salon management.

28. Public relations.

Section 8. Schools are permitted to have one (1) lecture per month by a reputable manufacturer, or an authorized manufacturer's representative, to demonstrate their particular product.

Section 9. Any time not utilized in theory or clinic work must be used for study periods or library work.

Section 10. Each school shall furnish reference books for students' use. Any recognized textbook relevant to the art of science of cosmetology is acceptable to the board.

Section 11. Students of cosmetology shall not be permitted to work on the public until they have completed 300 hours of instruction.

Section 12. Students of cosmetology will be allowed eight (8) hours per day for two (2) out-of-school activities per 1,800 hours pertaining to the profession of cosmetology if reported to the board office on a standard form supplied by the board.

Section 13. Students of cosmetology will be permitted to attend two (2) educational programs within their 1,800-hour course for eight (8) hours credit per day, exclusive of Sundays, if reported to the board office on a standard form supplied by the board.

Section 14. Recommended Textbooks: (1) "Standard Textbook of Cosmetology," 1938, revised edition, 1967, Milady Publishing Corp., 3837-3839 White Plains Road, Bronx, New York 10467.

(2) "Physics of Hair," Wallat, 1960, Milady Publishing Corp., 3837-3839 White Plains Road, Bronx, New York 10467.

(3) "The Van Dean Manual," 1940, revised edition, 1962, Milady Publishing Corp., 3837-3839 White Plains Road, Bronx, New York 10467.

(4) "Sullivan Beauty Manual," 1963, E. M. Sullivan, revised edition, 1967, E. M. Sullivan, Publisher, P.O. Box 823, Orange, California 92669.

(5) "Chemistry for Cosmetology Students," 1969, Intron, Inc., P. O. Box 477, Downey, California 90241.

(6) "The Principles and Practices of Beauty Culture," Florence Wall, 1941, revised edition, 1961, Milady Publishing Corp., 3837-3839 White Plains Road, Bronx, New York 10467.

(7) "Hair Structure and Chemistry," 1967, Milady Publishing Corp., 3837-3839 White Plains Road, Bronx, New York 10467.

(8) "Cosmetology, the Keystone Guide to Beauty Culture," 1970 edition, Keystone Publications, 1657 Broadway, New York, New York 10019.

(9) At least one (1) copy of a standard dictionary of the English language.

(10) At least one (1) copy of a standard medical dictionary.

(11) At least one (1) copy per student of the Kentucky

State Board of Hairdressers and Cosmetologists statutes and regulations.

(12) At least five (5) copies of the rules of the school. The most recent printing of each textbook is preferred.

(13) *"The Prentice-Hall Textbook of Cosmetology," 1976 by Prentice-Hall, Inc., Englewood Cliffs, New Jersey 07632. The most recent printing of each textbook is preferred.*

(14) *"The Professional Cosmetologist," 1976, John W. Dalton, West Publishing Company.*

Section 15. Manicurist curriculum shall include the following:

- (1) Science and theory; 100 hours:
 - (a) Equipment, sterilization, sanitation, public and personal hygiene safety measures, Kentucky Cosmetology Law and all rules and regulations adopted thereunder.
 - (b) Nail condition and manicure techniques.
 - (c) Hand and arm massage.
 - (d) Science pertaining to areas of hands and arms.
 - (e) Personality, grooming, salon management, professional ethics, and cosmetic theory laws.
- (2) Clinical; 200 hours:
 - (a) Oil and plain manicure.
 - (b) Nail polish changes, moons, half-moons, and tips.
 - (c) Hand and arm massage.
 - (d) Safety measures.
 - (e) Care of equipment.
 - (f) Removal of stains.
 - (g) Repair work.
 - (h) Buffing.
 - (i) Application of lacquer.
 - (j) Application of artificial nails.

Section 16. The course of study and curriculum for an apprentice instructor shall include as minimums, with a total of 1,000 hours, the following:

- (1) Orientation, fifteen (15) hours.
- (2) Psychology of student training, fifty (50) hours.
- (3) Introduction to teaching, thirty (30) hours.
- (4) Good grooming and personality development, fifty (50) hours.
- (5) Course outlining and development, forty (40) hours.
- (6) Lesson planning, forty-five (45) hours.
- (7) Teaching techniques (methods), eighty (80) hours.
- (8) Teaching aids, audio-visual techniques, eighty (80) hours.
- (9) Demonstration techniques, fifty-five (55) hours.
- (10) Examinations and analysis, sixty (60) hours.
- (11) Classroom management, forty-five (45) hours.
- (12) Record keeping, twenty-five (25) hours.
- (13) Teaching observation, sixty-five (65) hours.
- (14) Teacher assistant, ninety (90) hours.
- (15) Pupil teaching (practice teaching), 270 hours.

Section 17. Recommended Textbooks: (1) "Psychology in Teaching," H. P. Smith.

- (2) "Milady Course of Study for Student Teachers."
- (3) "325 Teaching Hints."

Section 18. All student instructors must be under the immediate supervision and instruction of a licensed instructor at all times during the school day. No student instructor shall ever assume any of the duties and responsibilities of a licensed supervising instructor.

Section 19. All records of apprentice instructors' hours earned shall be recorded on a standard form supplied by the board office on or before the tenth (10th) day of each month.

CARROLL ROBERTS, Administrator

ADOPTED: April 5, 1976

APPROVED: RUSSELL McCLURE, Secretary

RECEIVED BY LRC: September 21, 1976 at 11:15 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Carroll Roberts, Administrator, Board of Hairdressers and Cosmetologists, 304 West Liberty, Suite 300, Louisville, Kentucky 40202.

DEPARTMENT OF TRANSPORTATION Bureau of Highways (Proposed Amendment)

603 KAR 3:010. Advertising devices on interstates.

RELATES TO: KRS 177.830 to 177.890

PURSUANT TO: KRS 13.082, 174.050, 177.830, 177.890

NECESSITY AND FUNCTION: KRS 177.830 to 177.890 authorizes the Bureau of Highways to establish regulations for the control of advertising devices on interstate[, turnpike, or fully controlled access] highways.

Section 1. (1) Except as provided for in this regulation, no person shall erect or maintain any advertising device within any protected area if such device is legible or identifiable from the main traveled way of any interstate[, turnpike, or fully controlled access] highway[s].

(2) The erection or maintenance of any advertising device located outside of "urban areas" and beyond 660 feet of the right of way which is legible and/or identifiable from the main traveled way of any interstate highway is prohibited with the exception of:

- (a) Directional and official signs and notices;
- (b) Signs advertising the sale or lease of property upon which they are located; or
- (c) Signs advertising activities conducted on the property on which they are located.

Section 2. Definitions. The following terms when used in this regulation shall have the following meanings:

(1) "Advertising device" means any billboard, sign, notice, poster, display or other device intended to attract the attention of operators of motor vehicles on the highway, and shall include a structure erected or used in connection with the display of any such device and all lighting or other attachments used in connection therewith. However, it does not include directional or other official signs or signals erected by the state or other public agency having jurisdiction.

(2) "Billboard" advertising devices are those devices that contain a message relating to an activity or product that is foreign to the site on which the device and message is located or is an advertising device erected by a company or individual for the purpose of selling advertising messages for profit.

(3) "On-premise" advertising devices are those devices that contain a message relating to an activity or the sale of a product on the property on which they are located.

(4) "Center line of the highway" means a line equidistant from the edges of the median separating the main traveled ways of a divided highway, or the center line of the main traveled way of a non-divided highway.

(5) "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw or in any way bring into being or establish.

(6) "Legible" means capable of being read without visual aid by a person of normal visual acuity, or capable of conveying an advertising message to a person of normal visual acuity.

(7) "Main traveled way" means the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of a separated roadway for traffic in opposite directions is a main traveled way. It does not include such facilities as frontage roads, turning roadways, or parking area.

(8) "Protected areas" means all areas within the boundaries of this Commonwealth which are adjacent to and within 660 feet of the edge of the right-of-way of all interstate highways [, fully controlled access highways and turnpikes] within the Commonwealth. Where these highways terminate at a state boundary which is not perpendicular or normal to the center line of the highways, "protected areas" also means all areas inside the boundaries of the Commonwealth which are within 660 feet of the edge of the right-of-way of an interstate [, turnpike or fully controlled] highway in an adjoining state.

(9) "Fully controlled access" as used in this regulation means highways which give preference to through traffic and which shall have access only at selected public roads or streets, and which shall have no highway grade crossing or intersection. Such term includes, but is not limited to, interstate highways and toll roads.]

(9) "Identifiable" means capable of being related to a particular product, service, business or other activity even though there is no written message to aid in establishing such relationship.

(10) "Traveled way" means the portion of a roadway for the movement of vehicles, exclusive of shoulders.

(11) "Turning roadway" means a connecting roadway for traffic turning between two (2) intersecting legs of an interchange.

(12) "Visible" means capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity.

(13) "Permitted" as used in this regulation means to exist only by permit from the Department of Transportation, Bureau of Highways.

(14) "Allowed" as used in this regulation means to exist without a permit from the Department of Transportation, Bureau of Highways.

(15) "Commercial or industrial area" means:

(a) The land use for the area as of September 21, 1959, was clearly established by state law as industrial or commercial and is zoned commercial or industrial at the time of the application, or

(b) The land use for such area was within an incorporated municipality as such boundaries existed on September 21, 1959, and is zoned for commercial and industrial use.

(16) "Commercial or industrial activities" means those activities generally recognized as commercial or industrial by zoning authorities in this state, except that none of the following activities shall be considered commercial or industrial:

(a) Outdoor advertising structures.

(b) Hospitals, nursing homes, cemeteries, funeral homes, etc. professional office buildings [;] and roadside markets not open over three (3) months a year.

(c) Agricultural, forestry, ranching, grazing, farming and related activities.

(d) Activities conducted in a building principally used as a residence.

(e) Railroad tracks and minor sidings.

(f) The sale or leasing of property.

[(17) "Grandfather restrictions" for "billboard" advertising devices. "Billboard" advertising devices that were legally erected may remain in place if they meet all criteria except spacing. Only routine maintenance may be performed on the sign and its structure until such time as proper spacing as described in this regulation is attained.]

(17) "Urban area" means an urbanized area or, in the case of an urbanized area encompassing more than one state, that part of the urbanized areas in each such state or an urban place as designated by the Bureau of the Census having a population of 5,000 or more and not within any urbanized area, within boundaries to be fixed by responsible state and local officials in cooperation with each other, subject to approval by the Secretary of the United States Department of Transportation. Such boundaries shall, as a minimum, encompass the entire urban place designated by the Bureau of the Census. Such urban areas shall be designated by official order of the Kentucky Secretary of Transportation.

(18) "Routine maintenance" means that maintenance [as it relates to grandfather restrictions] is limited to replacement of nuts and bolts, nailing, riveting, or welding, cleaning and painting or manipulating to level or plumb the device but not to the extent of adding guys or struts for the stabilization of the sign or structure [and] or substantially changing the sign. [no] Replacement of new or additional panels or facing shall not constitute routine maintenance [will be tolerated]. The routine changing of messages is considered to be routine maintenance. [not affected by this regulation.] Routine maintenance includes laminating or preparing panels in a plant or factory for the changing of messages.

(19) "Activity boundary line" means regularly used buildings, parking lots, storage and process areas which are an integral part of and contiguous to the activity.

(20) "Abandoned or discontinued" means that for a period of one (1) year or more that the sign:

(a) Has not displayed any advertising matter; or

(b) Has displayed obsolete advertising matter; or

(c) Has needed substantial repairs.

(21) "Non-conforming sign" means a sign which was lawfully erected but does not comply with the provisions of state law or regulations passed at a later date or later fails to comply with state law or regulations due to changed conditions, such as but not limited to, zoning change, highway relocation or reclassification, size, spacing or distance restrictions. Performance of other than routine maintenance shall cause a non-conforming sign to lose its status and to become an illegal sign.

(22) "Destroyed" means that the sign has sustained damage by any means in excess of sixty (60) percent of the structure and facing or sixty (60) percent of the replacement value of such sign.

Section 3. General Provisions. (1) Erection or existence of the following advertising devices may not be permitted or allowed in protected areas:

(a) Advertising devices advertising an activity that is

illegal under state or federal law.

(b) Obsolete advertising devices.

(c) Advertising devices that are not clean and in good repair.

(d) Advertising devices that are not securely affixed to a substantial structure.

(e) Advertising devices illuminated by other than white lights.

(f) Advertising devices which attempt or appear to attempt to direct the movement of traffic or which interfere with, imitate or resemble any official traffic sign, signal or device.

(g) Advertising devices which prevent the driver of a vehicle from having a clear and unobstructed view of official signs and approaching or merging traffic.

(h) Signs which contain, include, or are illuminated by any flashing, intermittent or moving lights, except those giving such public service information as time, date, temperature or weather and limited to two (2) displays per cycle. They may contain no commercial message.

(i) Advertising devices which use lighting in any way unless it is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the main traveled way of a highway or unless it is of such low intensity or brilliance as not to cause glare or to impair the vision of the driver of any motor vehicle, or to otherwise interfere with any driver's operation of a motor vehicle.

(j) Advertising devices which move or have any animated or moving parts.

(k) Advertising devices erected or maintained upon trees or painted or drawn upon rocks or other natural features.

(l) Advertising devices exceeding 1,250 square feet in area, including border and trim, but excluding supports.

(m) Advertising devices closer than fifty (50) feet to the edge of the main traveled way of any interstate [or fully controlled access] highway [or turnpike].

(2) An advertising device which is not visible from the main traveled way of the highway may be allowed in protected areas.

(3) Any advertising device which is legible from the main traveled way of any *interstate* [fully controlled] highway must have an approved permit from the Department of Transportation, Bureau of Highways to be a legal advertising device.

(4) If the advertising device is legible from more than one (1) highway on which control is exercised, the appropriate criteria applies to all of these highways. (See also: 603 KAR 3:020.)

(5) *A non-conforming sign may continue to exist until just compensation has been paid to the owner, only so long as it is:*

(a) *Not destroyed, abandoned or discontinued;*

(b) *Subjected to only routine maintenance; or*

(c) *A sign conforming to local zoning or sign or building restrictions.*

Section 4. Measurements of Distance. (1) In determining protected areas, distances from the edge of a right-of-way shall be measured horizontally along a line at the same elevation and at a right angle to the center line of a highway for a distance of 660 feet.

(2) In measuring distances for determination of spacing for advertising devices, two (2) lines shall be drawn perpendicular to the center line of the main traveled way, so as to cause the two (2) lines to embrace the greatest longitude along the center line of said highway.

(3) V-shaped or back-to-back type billboard advertising devices shall have no greater distance than fifteen (15) feet apart at the nearest point and must be connected by bracing or maintenance walkway.

(4) The 100 foot spacing for billboard advertising devices as described in Section 5, subsection (4) shall be measured from the nearest point between each device.

Section 5. "Billboard" advertising device provisions. (1) "Billboard" advertising devices may be constructed and maintained in protected areas which are zoned commercial or industrial as defined in Section 2, subsection (15) of this regulation and comply with the provisions of this regulation for this type advertising device and other applicable state, county or city zoning ordinances or regulations. Limited to a maximum of 1,250 square feet subject to other provisions of this regulation.

(2) V-shaped or back-to-back "billboard" advertising devices will be considered as one (1) advertising device structure and must meet specifications as described in Section 4, subsection (3).

(3) "Billboard" advertising devices may contain two (2) messages per facing not to exceed the maximum sized area as set forth in Section 3, subsection (1), paragraph (1).

(4) No "billboard" advertising device structure [designed to be primarily viewed from any highway within the scope of these regulations] shall be erected within 100 feet of any other such advertising device structure on the same side of the highway, unless separated by a building, natural obstruction or roadway in such manner that only one (1) sign located within the required spacing distance is visible from the highway at any one time. (See Measurement of spacing, Section 4, subsection (4).) This spacing shall not apply to on-premise advertising devices nor will on-premise advertising devices affect the spacing of other advertising structures.

(5) *"Billboard" advertising devices that were legally erected may remain in place if they meet all criteria except spacing. Only routine maintenance may be performed on the sign and its structure until such time as proper spacing as described in this regulation is attained.*

[(5) Spacing requirements for "billboard" advertising devices may be waived for signs legally erected in conforming areas under grandfather restrictions as described in Section 2, subsections (17) and (18).]

(6) Spacing rights will be issued on a "first come, first served" basis. Proof of lease of a site must accompany the application. Updating of proof of lease and application will be required annually until a sign has been erected.

Section 6. "On-premise" advertising devices. (1) "On-premise" advertising devices may have a maximum of 1,250 square feet in area if they qualify as commercial or industrial activities as set forth in Section 2, subsection (16) of this regulation, or are on or within fifty (50) feet of the advertised activity and are within the property boundary lines of such activity.

(2) To qualify as an "on-premise" advertising device, the device must be within the property boundary lines of the advertised activity.

(3) No "on-premise" advertising device may exceed twenty (20) feet in length, width or height or 150 square feet in area, including border and trim but excluding supports, if it is farther than fifty (50) feet from the activity boundary lines (not the property boundary lines).

(4) No "on-premise" advertising device advertising a commercial or industrial activity as set forth in Section 2.

subsection (16) of this regulation shall be located more than 400 feet, measured within the property boundary, from the advertised activity. In using a corridor to reach the location of the device, the corridor must be no less than 100 feet in width and must be an integral part of the property on which the advertised activity is located. No other [business] activity which is in any manner foreign to the advertised activity may be located on or have use of said corridor between the advertised activity and the location of the device. No activity incidental to the primary activity advertised will be considered in taking measurements.

(5) Only one (1) "on-premise" advertising device which is listed as an exception in Section 2, subsection (16), may be located in such a manner that it is legible from the main traveled way.

(6) Only one (1) of the following "on-premise" advertising devices may be located in such a manner that it is legible from the main traveled way.

(a) The setting forth or indicating the name and address of the owner, lessee or occupant of the property on which the advertising device is located; or

(b) The name or type of business or profession conducted on the property on which the advertising device is located; or

(c) Information required or authorized by law to be posted or displayed on such property; or

(d) The sale or leasing of the property upon which the advertising device is located.

1. Advertising devices which are for the purpose of sale or leasing of property by a real estate company or individual will be limited to a six (6) month permit. After the six (6) months, the real estate name must be removed and the message advertising the sale or lease of the property along with the telephone number of the real estate company is all that may remain. This will be a condition of the permit.

2. If the property is for sale by the owner and the owner is other than a real estate company, the message stating the leasing or sale of the property may list the name of the owner (letters of owner's name may be no larger than one-half (½) the size of the letters in the basic message), and the telephone number and will not be restricted to the six (6) month permit.

(e) Advertising customarily used at similar places of business that are not legible from the main traveled way of the highway; or

(f) The advertisement or control of an activity or sale of products on the property where the advertising device is located.

(7) No advertising device referred to in subsections (5) and (6) of this section may exceed twenty (20) feet in length, width or height or 150 square feet in area including border and trim but excluding supports. Nor will these advertising devices be subject to restrictions as set forth in subsection (4) of this section of this regulation.

(8) Brand name "on-premise" advertising devices may advertise only the activities conducted upon the property on which they are located with exceptions as to type as follows:

(a) "Ford," "Chevrolet," "Pontiac," etc.

(b) "A&P," "Kroger," etc.

(c) "Kentucky Fried Chicken," "Bob Evans Restaurants," "Stuckeys," etc.

(9) Brand names such as the following may not be advertised because they are incidental to the primary activity:

(a) "Auto Light," "Delco," etc.

(b) "8 o'clock coffee," "Armour Meats," "Clabber Girl Baking Powder," etc.

(c) "Coca-Cola," "Pepsi," "Winstons," etc.

(10) Application for advertising device permits for on-premise signs must give a detailed description of the exact wording of the message to be conveyed on the advertising device. This information may be furnished by either a photograph or a drawing, and may be changed only upon the approval of the Bureau of Highways of a new application submitted by the permit holder which shows the proposed change in the message.

(11) An exception to subsection (10) is that a marquee type on-premise advertising device, such as a typical theatre or cinema advertising device, may change messages without a new application. This message change may be from one (1) legitimate on-premise activity to another.

JOHN C. ROBERTS, Secretary

ADOPTED: October 11, 1976

RECEIVED BY LRC: October 11, 1976 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Ed W. Hancock, Deputy Secretary for Legal Affairs, Department of Transportation, Frankfort, Kentucky 40601.

DEPARTMENT OF TRANSPORTATION Bureau of Highways (Proposed Amendment)

603 KAR 3:020. Advertising devices on federal aid primary system.

RELATES TO: KRS 177.830 to 177.890

PURSUANT TO: KRS 13.082, 174.050, 177.830 to 177.890

NECESSITY AND FUNCTION: KRS 177.830 to 177.890 authorizes the Bureau of Highways to establish regulations for the control of advertising devices on Federal Aid Primary System [and those highways with partially controlled access].

Section 1. (1) Except as provided [for] in this regulation no person shall erect or maintain any advertising device within any protected area if such device is legible or identifiable from the main traveled way of any federal aid primary [or partially controlled access] highway.

(2) The erection or maintenance of any advertising device located outside of urban areas and beyond 660 feet of the right of way which is legible and/or identifiable from the main traveled way of any federal aid primary highway is prohibited with the exception of:

(a) Directional and official signs and notices;

(b) Signs advertising the sale or lease of property upon which they are located; or

(c) Signs advertising activities conducted on the property on which they are located.

Section 2. Definitions. (1) "Advertising device" means any billboard, sign, notice, poster, display, or other device intended to attract the attention of operators of motor vehicles on the highway, and shall include a structure erected or used in connection with the display of any such device and all lighting or other attachments used in connection therewith. However, it does not include

directional or other official signs or signals erected by the state or other public agency having jurisdiction.

(2) "Billboard" advertising devices are those devices that contain a message relating to an activity or product that is foreign to the site on which the device and message is located or is an advertising device erected by a company or individual for the purpose of selling advertising messages for profit.

(3) "On-premise" advertising devices are those devices that contain a message relating to an activity or the sale of a product on the property on which they are located.

(4) "Center line of the highway" means a line equidistant from the edges of the median separating the main traveled ways of a divided highway, or the center line of the main traveled ways of a non-divided highway.

(5) "Erect" means to construct, build, raise, assemble, place, affix, create, paint, draw or in any way bring into being or establish.

(6) "Legible" means capable of being read without visual aid by a person of normal visual acuity, or capable of conveying an advertising message to a person of normal visual acuity.

(7) "Main traveled way" means the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of a separated roadway for traffic in opposite directions is a main traveled way. It does not include such facilities as frontage roads, turning roadways, or parking area.

(8) "Traveled way" means the portion of a roadway for the movement of vehicles, exclusive of shoulders.

(9) "Protected areas" means all areas within the boundaries of this Commonwealth which are adjacent to and within 660 feet of the edge of the right-of-way of all federal aid primary [and partially controlled access] highways within the Commonwealth. Where these highways terminate at a state boundary which is not perpendicular or normal to the center line of the highway, "protected areas" [also] means all areas inside the boundaries of the Commonwealth which are within 660 feet of the edge of the right-of-way of a federal aid primary [or partially controlled access] highway in an adjoining state.

(10) "Federal aid primary highway" means any highway, road, street, appurtenant facility, bridge or overpass including a turnpike or limited access highway which is designated a portion of federal aid primary highway system as may be established by law or as may be so designated by the Bureau of Highways and the United States Department of Transportation.

(11) "Identifiable" means capable of being related to a particular product, service, business or other activity even though there is no written message to aid in establishing such relationship.

[(11) "Partially controlled access highway" means highways where access was provided for at the time of design and construction, but no additional access will be permitted.]

(12) "Turning roadway" means a connecting roadway for traffic turning between two (2) intersecting legs of an interchange.

(13) "Visible" means capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity.

(14) "Permitted" as used in this regulation means to exist only by permit from the Department of Transportation, Bureau of Highways.

(15) "Allowed" as used in this regulation means to exist without a permit from the Department of Transportation,

Bureau of Highways.

(16) "Commercial or industrial zone" means an area zoned for business, commerce or trade pursuant to state or local law, regulation or ordinance. To be zoned commercial or industrial, the entire city or county must be "comprehensively" zoned.

(17) "Comprehensively zoned" means that each parcel of land under the jurisdiction of the zoning authority has been placed in some zoning classification.

(18) "Unzoned commercial or industrial area" means an area which is not zoned by state or local law, regulation or ordinance and on which a commercial or industrial activity is located, together with an area extending along the highway for a distance of 700 feet on each side of the activity boundary line and on the same side of the road. Each side of the highway where a commercial or industrial activity is located will be considered separately in applying this definition. All measurements shall be from outer edges of the regularly used building, parking lots, storage or process areas of the activities and not, from the property boundary lines.

(19) "Commercial or industrial activities" means those activities generally recognized as commercial or industrial by zoning authorities in this state, except that none of the following activities shall be considered commercial or industrial:

(a) Outdoor advertising structures.

(b) Hospitals, nursing homes, cemeteries, funeral homes, etc; professional office buildings; and roadside markets not open over three (3) months a year.

(c) Agricultural, forestry, ranching, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands.

(d) Activities normally or regularly in operation less than three (3) months of the year.

(e) Transient or temporary activities.

(f) Activities not visible from the main traveled way.

(g) Activities more than 300 feet from the nearest edge of the right-of-way.

(h) Activities conducted in a building principally used as a residence.

(i) Railroad tracks and minor sidings.

(j) The sale or leasing of property.

(20) "Urban area" means an urbanized area or, in the case of an urbanized area encompassing more than one (1) state, that part of the urbanized areas in each such state or an urban place as designated by the Bureau of the Census having a population of 5,000 or more and not within any urbanized area, within boundaries to be fixed by responsible state and local officials in cooperation with each other, subject to approval by the Secretary of the United States Department of Transportation. Such boundaries shall, as a minimum, encompass the entire urban place designated by the Bureau of the Census. Such urban areas shall be designated by official order of the Kentucky Secretary of Transportation.

[(20) "Grandfather restrictions" for "billboard" advertising devices. "Billboard" advertising devices that were legally erected may remain in place if they meet all criteria except spacing. Only routine maintenance may be performed on the sign and its structure until such time as proper spacing as described in this regulation is attained.]

(21) ["Routine Maintenance."] "Routine maintenance" means that maintenance [as it relates to grandfather restrictions] is limited to replacement of nuts and bolts, nailing, riveting or welding, cleaning and painting or manipulating to level or plumb the device but not to the

extent of adding guys or struts for the stabilization of the sign or structure [and] *or substantially changing the sign.* [no] Replacement of new or additional panels or facing *shall not constitute routine maintenance* [will be tolerated]. The routine changing of messages is *considered to be routine maintenance* [not affected by this regulation]. *Routine maintenance includes laminating or preparing panels in a plant or factory for the changing of message.*

(22) "Activity boundary line" means regularly used buildings, parking lots, storage and process areas which are an integral part of and contiguous to the activity.

(23) "Abandoned or discontinued" means that for a period of one (1) year or more that the sign:

- (a) Has not displayed any advertising matter; or
- (b) Has displayed obsolete advertising matter; or
- (c) Has needed substantial repairs.

(24) "Non-conforming Sign" means a sign which was lawfully erected but does not comply with the provisions of state law or regulations passed at a later date or later fails to comply with state law or regulations due to changed conditions, such as but not limited to, zoning change, highway relocation or reclassification, size, spacing or distance restrictions. Performance of other than routine maintenance shall cause a non-conforming sign to lose its status and to become an illegal sign.

(25) "Destroyed" means that the sign has sustained damage by any means in excess of sixty (60) percent of the structure and facing or sixty (60) percent of the replacement value of such sign.

[(22) "Legal sign" means signs that meet one (1) of the following criteria:]

[(a) Signs which were lawfully in existence on October 22, 1965;]

[(b) Signs which were lawfully erected on any highway made a part of the system on or after October 22, 1965, and before January 1, 1968;]

[(c) Signs lawfully erected after January 1, 1968, in accordance with the criteria in the Highway Beautification Act of 1965;]

[(d) Signs which by virtue of system or control of access change come under the influence of this regulation.]

[(23) "Illegal sign" means any sign that conflicts with the definition of a legal sign or one which was erected after August 1, 1972, and which does not conform to the criteria established by law and regulation for the area in which the sign is located.]

[(24) "Conforming sign" means a sign that contains a message consistent with criteria established by law and regulation for the area on which the sign is located.]

[(25) "Non-conforming sign" means a sign that contains a message that is not consistent with criteria established by law and regulation for the area on which it is located.]

[(26) "Designed to be primarily viewed" as used in this regulation shall mean any sign whose advertising content may be identified from the main traveled way of a highway under normal driving conditions.]

Section 3. General Provisions. (1) Erection or existence of the following advertising devices may not be permitted or allowed in protected areas:

- (a) Advertising devices advertising an activity that is illegal under state or federal law.
- (b) Obsolete advertising devices.
- (c) Advertising devices that are not clean and in good repair.

(d) Advertising devices that are not securely affixed to a substantial structure.

(e) Advertising devices which attempt or appear to attempt to direct the movement of traffic or which interfere with, imitate or resemble any official traffic sign, signal or device.

(f) Advertising devices which prevent the driver of a vehicle from having a clear and unobstructed view of official signs and approaching or merging traffic.

(g) Signs which contain, include, or are illuminated by any flashing, intermittent or moving lights, except those giving such public service information as time, date, temperature or weather and limited to two(2) displays per cycle. They may contain no commercial message.

(h) Advertising devices which use lighting in any way unless it is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the main traveled way of a highway, or unless it is of such low intensity or brilliance as not to cause glare or to impair the vision of the driver of any motor vehicle, or to otherwise interfere with any driver's operation of a motor vehicle.

(i) Advertising devices which move or have any animated or moving parts, unless they are "on-premise" advertising devices and are located in commercially or industrially zoned areas.

(j) Advertising devices erected or maintained upon trees or painted or drawn upon rocks or other natural features.

(k) Advertising devices erected upon or overhanging the right-of-way.

(l) Advertising devices exceeding 1,250 square feet in area, including border and trim, but excluding supports.

(2) An advertising device which is not visible from the main traveled way of the highway may be allowed in protected areas.

(3) If the advertising device is legible from more than one (1) highway on which control is exercised, the appropriate criteria applies to all of these highways. (See also: 603 KAR 3:010.)

(4) No advertising device may be erected or maintained within the state right-of-way except directional or other official signs or signals erected by the state or other public agency having jurisdiction.

(5) Directional and other official signs, including signs placed by the bureau, signs denoting the location of underground utilities (limited to two (2) square feet), signs erected by federal, state and local governments to delineate boundaries of reservations, parks or districts (limited to 150 square feet), civic and church signs giving meetings, time and place (limited to eight (8) square feet and limited to locations specifically permitted by the bureau), and signs such as "posted," "no fishing," "no hunting," etc. placed by property owners to discourage trespassing (limited to two (2) square feet).

(6) No on-premise advertising device, in zoned or unzoned commercial or industrial areas, will affect

(7) A permit will be required from the Department of Transportation, Bureau of Highways for any billboard advertising device. On-premise advertising devices will be allowed and controlled by surveillance.

(8) A non-conforming sign may continue to exist until just compensation has been paid to the owner, only so long as it is:

- (a) Not destroyed, abandoned or discontinued;
- (b) Subjected to only routine maintenance; or
- (c) A sign conforming to local zoning or sign or building restrictions.

Spacing billboard advertising

Section 4. Measurements of Distance. (1) In determining protected areas, distances from the edge of a right-of-way shall be measured horizontally along a line at the same elevation and at a right angle to the center line of a highway for a distance of 660 feet.

(2) In measuring distances for determination of spacing for billboard advertising devices, two (2) lines shall be drawn perpendicular to the center line of the main traveled way, so as to cause the two (2) lines to embrace the greatest longitude along the center line of said highway.

(3) V-shaped or back to back type billboard advertising devices shall have no greater distance than fifteen (15) feet apart at the nearest point and must be connected by bracing or maintenance walkway.

(4) The spacing for billboard advertising devices as described in Section 5, subsections (12) and (13) shall be measured from the nearest point between each device.

(5) In measuring distances for the determination of an unzoned commercial or industrial area, two (2) lines shall be drawn perpendicular to the center line of the main traveled way to encompass the greatest longitudinal distance along the center line of the highway. All areas within the confines of these lines shall be considered a part of the unzoned commercial or industrial area. Measurements for these areas shall begin at the outside edge of the activity boundary lines and shall be measured 700 feet in each direction.

Section 5. "Billboard" advertising device provisions. (1) "Billboard" advertising devices may be constructed and maintained in protected areas which are zoned or unzoned commercial or industrial as defined in Section 2, subsections (16) and (18) of this regulation and comply with the provisions of this regulation for this type advertising device and other applicable state, county or city zoning ordinances or regulations[,] *and shall be limited to a maximum of 1,250 square feet subject to other provisions of this regulation.*

(2) V-shaped or back to back "billboard" advertising devices will be considered as one (1) advertising device structure and must meet specifications as described in Section 4, subsection (3).

(3) "Billboard" advertising devices may contain two (2) messages per facing not to exceed the maximum sized area as set forth in Section 3, subsection (1)(l).

(4) V-shaped or back to back structures will be allowed the maximum 1,250 square feet per facing.

(5) *"Billboard" advertising devices that were legally erected may remain in place if they meet all criteria except spacing. Only routine maintenance may be performed on the sign and its structure until such time as proper spacing as described in this regulation is attained.*

[(5) Spacing requirements for "billboard" advertising devices may be waived for signs legally erected in conforming areas under grandfather restrictions as described in Section 2, subsections (20) and (21).]

(6) Spacing rights will be issued on a "first come, first served" basis. Proof of lease of a site must accompany the application. Updating of proof of lease and application will be required annually until a sign has been erected.

(7) Billboard advertising devices may be permitted in zoned or unzoned commercial or industrial areas subject to other provisions of this regulation.

(8) Billboard advertising devices constructed in unzoned commercial and industrial areas will be permitted to exist as long as there is a commercial or industrial operated

business. Upon the termination or abandonment of a business or industry for which the unzoned commercial or industrial area was created, the billboard advertising devices may remain in existence for one (1) year. [At the end of that time, the permit will be revoked and the advertising devices whose existence depended upon the commercial or industrial activity will be required to be removed.]

(9) No billboard advertising device may be illuminated by other than white lights.

(10) Any billboard advertising device which is legible *or identifiable* from the main traveled way must have an approved permit from the Department of Transportation, Bureau of Highways[,] [to be a legal advertising device].

(11) No unzoned commercial or industrial area may be created when a commercial or industrial activity is more than 300 feet from the right-of-way.

(12) Spacing for billboard advertising *device structures* in unzoned commercial or industrial areas as described in Section 4, subsections (4) and (5) will be 300 feet measured from the nearest point between each advertising device, unless separated by a building, roadway, or natural obstruction, in such a manner that only one (1) sign located within the required spacing is visible from the highway at any time. This spacing will be reduced to 100 feet within incorporated municipalities which do not have comprehensive zoning.

(13) Spacing for billboard advertising *device structures* in any comprehensively zoned commercial or industrial area will be 100 feet, *unless separated by a building, roadway, or natural obstruction, in such a manner that only one (1) sign located within the required spacing is visible from the highway at any time.*

Section 6. "On-premise" advertising devices. (1) "On-premise" advertising devices may have a maximum of 1,250 square feet in area if they qualify as commercial or industrial activities as set forth in Section 2, subsection (19) of this regulation, and are on or within fifty (50) feet of the advertised activity and are within the property boundary lines of such activity.

(2) Only one (1) "on-premise" advertising device advertising a commercial or industrial activity as described in Section 2, subsection (19), may be located at a distance greater than fifty (50) feet from the activity boundary line. This advertising device will be limited in size as set forth in subsection (4) of the section. All other advertising devices must be within fifty (50) feet of the advertised activity.

(3) To qualify as an "on-premise" advertising device, the device must be within the property boundary lines of the advertised activity.

(4) No "on-premise" advertising device may exceed twenty (20) feet in length, width or height or 150 square feet in area including border and trim, but excluding supports, if it is farther than fifty (50) feet from the activity boundary lines (not the property boundary lines).

(5) Only one (1) "on-premise" advertising device which is listed as an exception in Section 2, subsection (19) may be located in such a manner that it is legible *or identifiable* from the main traveled way.

(6) Only one (1) of the following "on-premise" advertising devices may be located in such a manner that it is legible *or identifiable* from the main traveled way.

(a) The setting forth or indicating the name and address of the owner, lessee or occupant of the property on which the advertising device is located; or

(b) The name or type of business or profession conducted on the property on which the advertising device is located; or

(c) Information required or authorized by law to be posted or displayed on such property; or

(d) The sale or leasing of the property upon which the advertising device is located.

1. Advertising devices which are for the purpose of sale or leasing of property by a real estate company or agency [individual] will be limited to a six (6) month permit. After the six (6) months, the real estate company or agency name must be removed and the message advertising the sale or lease of the property along with the telephone number of the real estate company or agency is all that may remain. This will be a condition of the permit.

2. If the property is for sale by the owner and the owner is other than a real estate company, or agency the message stating the leasing or sale of the property may list the name of the owner (letters of owners name may be no larger than one-half (1/2) the size of the letters in the basic message), and the telephone number and will not be restricted to the six (6) month permit.

(e) Advertising customarily used at similar places of business that are not legible or identifiable from the main traveled way of the highway; or

(f) The advertisement or control of an activity or sale of products on the property where the advertising device is located.

(7) No advertising device referred to in subsections (5) and (6) of this section may exceed twenty(20) feet in length, width or height or 150 square feet in area including border and trim but excluding supports.

(8) Each business is permitted as many [custom built] signs, stating *only* the name of the business, as they desire. In the absence of *such* [custom built] signs, the owner may have one (1) sign giving the name of the business and a particular brand name product. The sign may not contain more than two-thirds (2/3) of the size for the brand name.

(9) The fact that a particular product is sold at a business will not be construed to mean that this is an activity.

(10) *Brand name. "On-premise" advertising devices may advertise only the activities conducted upon the property on which they are located with exceptions as to type as follows:*

(a) "Ford," "Chevrolet," "Pontiac," etc.

(b) "A&P," "Kroger," etc.

(c) "Kentucky Fried Chicken," "Bob Evans Restaurants," "Stuckeys," etc.

(11) *Brand names such as the following may not be advertised because they are incidental to the primary activity:*

(b) "8 O'clock coffee," "Armour meats," "Clabber Girl Baking Powder," etc.

(c) "Coca-Cola," "Pepsi," "Winstons," etc.

Section 7. "Grandfather Restrictions;" on-premise advertising devices in incorporated municipalities and urban areas. Grandfather restrictions as described in this section shall apply to the following advertising devices only:

(1) *Only one (1) "on-premise" advertising device will be "permitted" to overhang the state right-of-way, advertising any one (1) business. This refers to only those advertising devices in existence at the time of the adoption of this regulation and where there is not space off the right-of-way to accommodate an advertising device.*

(2) *Any new building or structure which comes into being after the adoption of this regulation, which abuts or*

is upon the state right-of-way, in which a business or activity is to be located, and such business or activity requires an advertising device, such new device must meet the conditions set forth in subsection (4)(a) of this section in addition to other provisions of this section and other sections of this regulation.

(3) *Only "routine maintenance" as described in this regulation will be "permitted" on any "on-premise" advertising device under grandfather restrictions in this section.*

(4) *Any time an existing "permitted" advertising device is replaced, it must comply with the following criteria:*

(a) *No advertising device or portion of an advertising device may be erected that extends more than two (2) feet beyond the face of the building, if the building is abutting or within the state right-of-way. This condition does not apply to advertising devices when the building or structure has a setback of more than two (2) feet from the state right-of-way. Any building with a setback from the right-of-way must reduce the overhang of the advertising device by the number of inches of the setback. No advertising device may be erected which has a base or any part of a base on the state right-of-way.*

(5) *Any advertising device with a base or any portion of a base which is located on the state right-of-way must be relocated off the right-of-way where there is sufficient space. If space is not available to relocate the existing advertising device off the right-of-way, relocation of the device must comply with restrictions as contained in subsection (4) of this section.*

(a) *Where there is space off the right-of-way to relocate an existing advertising device, the owner shall be notified and be allowed a reasonable amount of time to accomplish the relocation.*

(b) *In no instance shall the time allowed to relocate an advertising device, whose base is on the state right-of-way, exceed a five (5) year period. No permit shall be issued for this type advertising device.*

(6) *Any "on-premise" advertising device "permitted" under grandfather restrictions, or any new advertising device, which is "permitted" to be erected under the provisions of subsection (4) of this section, must have an approved permit from the Department of Transportation, Bureau of Highways, to be a legal advertising device.*

(7) *No advertising device will be "permitted" under this section which interferes with any official sign, signal, or device.*

(8) *Any advertising device "permitted" under this section must meet the requirements for an "on-premise" advertising device as set forth in this regulation.*

[Section 7. Compensation for Sign Removal. (1) Compensation shall be paid to those persons or companies who own legal outdoor advertising devices erected in areas which do not conform with the law. Compensation will be paid for the following:]

[(a) The taking from the owner of such outdoor advertising device of all right, title, leasehold, and interest in the advertising device.]

[(b) The taking from the owner of the real property on which the outdoor advertising device is located the right to erect and maintain such outdoor advertising device.]

[(2) Payment of just compensation shall be determined by the use of fixed rate schedules which are developed for the particular type advertising device or interest held by the property owner. An appraisal or value finding will be made

for each advertising device or interest therein using the date from the fixed rate schedules.]

JOHN C. ROBERTS, Secretary

ADOPTED: October 11, 1976

RECEIVED BY LRC: October 11, 1976 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Ed W. Hancock, Deputy Secretary for Legal Affairs,
Department of Transportation, Frankfort, Kentucky
40601.

PUBLIC PROTECTION AND REGULATION CABINET

Board of Tax Appeals
(Proposed Amendment)

802 KAR 1:010. Rules of practice and procedure.

RELATES TO: KRS 131.345

PURSUANT TO: KRS 13.082, 131.345

NECESSITY AND FUNCTION: KRS 131.345 provides that "Appeals to the Kentucky Board of Tax Appeals shall be in accordance with rules prescribed by the Board." The following rules have been adopted in compliance with that authority.

Section 1. Appeals to the board. (1) All appeals from rulings, orders or determinations of any state or county agency shall be filed with the board by filing a complaint or petition of appeal with the board at its offices at Frankfort, Kentucky, within thirty (30) days from the receipt by any aggrieved party of the agency's ruling, order or determination.

(2) *Except as provided in subsection (3) of this section, such [Such] appeal shall be filed in quintuplicate [duplicate] and shall contain a brief statement of the law or facts in issue and the petitioner's position as to the law or facts. Said appeal shall have attached thereto a copy of the final ruling, order or determination of the [state or county] agency appealed from. [Said appeal may contain a request for hearing.]*

(3) *All appeals from final rulings of a county Board of Assessment Appeals shall be appealed in like manner, except that such appeal shall be filed in triplicate.*

Section 2. Hearings. (1) Hearings shall be held at the offices of the board at Frankfort, Kentucky, except that a case may be assigned for hearing elsewhere in the Commonwealth of Kentucky when deemed necessary to afford a taxpayer or interested party an opportunity to appear before the board with as little inconvenience and expense as practicable.

(2) All appeals shall be heard by the full board, provided that one (1) member thereof may be authorized to hear an individual appeal pursuant to order entered of record by the board.

(3) Appeals shall be assigned for hearing upon motion of any interested party or the board may, in its discretion, assign any appeal for hearing, having due regard for the convenience of the parties. Except where an appeal is assigned for hearing by agreement of the parties, all interested parties shall be given reasonable notice of a hearing date.

(4) Every hearing upon an appeal held before the board or one (1) of its members shall be conducted in a summary manner. Opportunity will be given to the parties to introduce witnesses and to present either in person or by counsel the points in issue. Such hearing shall be conducted in such manner as to ascertain the substantial rights of the parties and to determine fairly and expeditiously the matters in issue.

(5) All hearings shall be formally reported by the reporter for the board.

Section 3. Evidence. (1) The rules of evidence governing civil proceedings in the Commonwealth of Kentucky shall, insofar as practicable, govern hearings before the board.

(2) Evidence may be introduced by oral testimony at a hearing before the board or by deposition. The provisions of the Rules of Civil Procedure shall apply to the taking of depositions. No depositions shall be considered, unless, within ten (10) days, after submission of the appeal, it has been filed with the board; provided, however, that the board may, for good cause shown and upon motion filed within said ten (10) days grant an extension of time to file any deposition.

(3) The petitioner or appellant shall be required to complete his evidence in chief and so announce before respondent or appellee shall be required to introduce evidence, unless otherwise ordered by the board.

(4) The parties to an appeal may stipulate the facts in issue in whole or in part. Said stipulation shall be reduced to writing and filed with the board. All parties are encouraged to stipulate facts whenever possible.

Section 4. Parties failure to appear at hearing. (1) Where petitioner or appellant fails to appear at the hearing of his case, and no good cause is shown for his failure to appear, the case may be ordered dismissed for lack of prosecution by the board.

(2) Where the respondent or appellee fails to appear at the hearing of a case and no good cause is shown for his failure to appear, the board or any designated member thereof may proceed with the hearing of the case and it shall thereafter be submitted as provided by these rules.

Section 5. Appeal; when and how submitted. When all interested parties have announced through in presenting evidence or after all interested parties have had a reasonable opportunity to present evidence, the board may order the appeal to be submitted for a final ruling or order. Upon request of either party or upon the board's own motion, the order of submission may give the parties time within which to file briefs. Upon motion of any party and for good cause, the order of submission may be set aside and leave given to any party to take additional evidence.

Section 6. Briefs. Briefs shall be typewritten or printed and filed in quadruplicate with the board. A certification shall accompany any brief to the effect that copies have been served upon all interested parties as provided by the Rules of Civil Procedure. Mimeograph or multigraph copies will be accepted in lieu of typewritten copies. All copies of the brief must be clearly legible and

double spaced except for quotations on paper eight and one-half (8 1/2) inches wide and thirteen (13) inches long.

Section 7. Motions. The original copy of any motion shall be filed with the board and said motion shall be accompanied by a certification that copies have been served on all interested parties as required by the Rules of Civil Procedure.

Section 8. Subpoenas. Any member of the board, on the request in writing of any party to the appeal before it, or his attorney, shall issue subpoenas requiring the attendance of witnesses and the giving of testimony and subpoena duces tecum requiring the production of any returns, books, papers, documents, correspondence, and other evidence pertaining to the matter under inquiry in accordance with the Rules of Civil Procedure.

Section 9. Records and costs. (1) No record filed with the board is subject to withdrawal by any person, except on order of the board.

(2) Expenses of reporting hearings shall be paid by the state from the appropriation of the board. If any party desires to have the evidence at a hearing transcribed, he shall cause the reporter to prepare one (1) original transcript to be filed with the board and such additional copies as said party may desire. The party requesting a transcript of evidence shall pay for the original and any requested copy or copies in accordance with the rates established by the Kentucky Revised Statutes. Any other interested party may request a copy or copies of said transcript and shall pay for the same in accordance with the rates established by the Kentucky Revised Statutes.

JOHN S. HOFFMAN, Chairman

APPROVED: JAMES E. GRAY, Secretary

RECEIVED BY LRC: September 21, 1976 at 2:10 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Kentucky Board of Tax Appeals, Capital Plaza Tower, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET

State Racing Commission
(Proposed Amendment)

810 KAR 1:002. Racing commission.

RELATES TO: KRS 230.240(1)

PURSUANT TO: KRS 230.260(3)

NECESSITY AND FUNCTION: To regulate conditions under which thoroughbred racing shall be conducted in Kentucky. The function of the regulation is to outline the positions and duties of the commission. *The amendment to this regulation involves a title change only. It was felt by the commission that the title "director" implied a policy-making power which was not intended for this position.*

Section 1. Statutory powers of the commission.

(1) The commission shall be composed of five (5) members, responsible as a body for the regulation of thoroughbred racing in Kentucky, under the terms defined

in KRS 230.210 to 230.360, and other statutes pertaining to thoroughbred racing.

(2) Individual members of the commission may be assigned specific areas of responsibility; and, with the consent of the commission, can act with full authority of the commission in such areas.

Section 2. Commission secretary. The secretary of the commission shall be appointed by the Governor, for a term not to exceed four (4) years. He shall possess the powers and perform the duties imposed upon him by KRS 230.210 to 230.360, and shall perform such other duties as the commission may direct.

Section 3. Administrative staff. The following positions and duties compose, with secretary, the administrative staff of the commission:

(1) Senior steward and chief administrator, in overall supervision of all commission matters pertaining to racing.

(2) State steward, responsible for all commission matters at the race meetings to which he is assigned, and for such other duties as may be directed.

(3) Associate steward, who may be assigned by the commission to serve under the state steward as they may direct.

(4) Executive director, responsible under the chief administrator for the administration of commission programs.

(5) Public relations director, responsible for the promotion of the thoroughbred industry in Kentucky.

Section 4. Commission license administrator. The commission may employ a person or persons who shall be responsible for processing license applications of all persons, other than associations, required to be licensed by 810 KAR 1:003 and collecting fees therefor. All license applications received by the license administrator shall be subject to approval by the licensing committee and the commission. The licensing administrator and his assistants shall:

(1) Be present on association grounds prior to the opening of a race meeting to accept license applications and shall maintain an office on association grounds to accept license applications during such race meeting.

(2) File daily reports to the commission on license applications received with accountings of fees received and forwarded to the commission.

(3) Be responsible for the photographing of license applicants for whom same is required.

(4) Be bonded.

Section 5. Commission supervisor of pari-mutuel betting. (1) The commission shall employ a supervisor with accounting experience who shall be responsible for ascertaining whether the proper amounts have been paid from pari-mutuel pools to the betting public, to the association, and to the commonwealth, by checking, auditing, and filing with the commission verified reports accounting for daily pari-mutuel handle distribution and attendance for each preceding racing day and a final report at the conclusion of each race meeting in the Commonwealth.

(2) Such daily reports to the commission shall show: For each race: number of horses started, number of betting interests, total money wagered in each betting pool, and refunds, if any for each day. The sum of all betting pools, and total refunds also, total pari-mutuel handle for the

comparable racing day for the preceding year, and cumulative total and daily average pari-mutuel handle for the race meeting.

(3) Such daily reports also shall show: Amount of state pari-mutuel tax due; taxable admissions, tax exempt admissions, total admissions; temperature, weather and track conditions, post time of first race; program purses, distance and conditions of each race; any minus pools resulting with explanation.

(4) The commission supervisor of pari-mutuel betting shall submit to the commission on or before thirty (30) days after the close of each race meeting a final verified report giving in summary form a recapitulation of the daily reports for each race meeting and such other information as the commission may require.

(5) The commission supervisor of pari-mutuel betting or his representative shall have access to all association books, records, and pari-mutuel equipment for checking accuracy of same.

Section 6. Commission veterinarian. The commission shall employ a graduate veterinarian licensed in Kentucky and experienced in equine medicine and practice. He shall advise the commission and the stewards on all equine veterinary matters. The commission veterinarian's prime responsibility shall be the supervision and control of the detention area and for the collection of samples for the testing of horses for prohibited medication as outlined in 810 KAR 1:018. The commission may employ persons to assist the commission veterinarian in maintaining the detention area and collecting specimens. The commission veterinarian shall not treat or prescribe for any horse registered to race at any race track where he is employed, except in case of emergency; nor shall he buy or sell, for himself or another, any horse under his supervision; nor shall he wager on a race under his supervision.

Section 7. Commission chemist. (1) The commission is authorized to acquire, operate and maintain or to provide by contract for the maintenance of a testing laboratory and related facilities, for the purpose of performing such tests as the commission may require. Such commission chemist shall be a graduate chemist experienced in chemical testing techniques for conducting tests on urine, saliva, sweat, blood and other specimens from thoroughbreds delivered to the commission chemist or his representative by the commission veterinarian.

(2) The commission chemist shall report to the State Steward all substances he might find in his tests which are not normal in the body of the horse as outlined in 810 KAR 1:018. His duties will be limited to these reports and need not include the possible affects on the physiology of a horse.

Section 8. *Chief investigative officer.* [Commission director of security.] The commission may employ an investigator experienced in police work who shall advise the commission as to any person on association grounds, or among license applicants, whose conduct or reputation is such that such person's presence on association grounds may reflect on the honesty and integrity of thoroughbred racing or interfere with the orderly conduct of thoroughbred racing. The *chief investigative officer* [commission director of security] shall:

(1) Maintain a current file on persons against whom rulings have been issued in racing jurisdictions and reported through the National Association of State Racing

Commissioners. Said file also shall contain reports received from the Thoroughbred Racing Protective Bureau as to investigations, arrest records, and other information; said file also shall contain reports as to ejections or exclusions from association grounds in Kentucky and other racing jurisdictions.

(2) Investigate and ascertain the truth of statements made on license applications.

(3) Investigate possible infractions of racing rules at the request of the commission or stewards.

(4) Participate and co-operate with members of the track security police, Thoroughbred Racing Protective Bureau, state and local police on all other investigations pertaining to racing in the Commonwealth.

Section 9. Commission inspector. The commission may employ a person or persons who shall be responsible for ascertaining that all persons required to be licensed under 810 KAR 1:003 have same in their possession on association grounds, and for conducting investigations on association grounds at the request of the stewards or the director of security.

Section 10. Investigative powers. To insure compliance with these rules or to investigate possible infraction of these rules, the commission and its representatives shall have free access to all offices, files, records, enclosures, barns, and other facilities owned or possessed by associations. The commission and its representatives shall have the power to conduct a reasonable search of the person and property in the possession of licensed persons, such property being restricted to that on association grounds and including, without limiting thereby, tack rooms, living or sleeping quarters.

Section 11. Publication of rule changes. All rules adopted, revised, or repealed subsequent to the publication of a rule book shall be signed by the secretary and published by posting same with the effective date, in compliance with the statutes, of such change on the bulletin board on the racing secretary's office of each association, and by forwarding a copy of same to the National Association of State Racing Commissioners, and to the Daily Racing Form for publication therein.

WILLIAM H. MAY, Chairman

ADOPTED: September 28, 1976

APPROVED: JAMES E. GRAY, Secretary

RECEIVED BY LRC: September 29, 1976 at 1:30 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Keene Daingerfield, State Racing Commission, P. O. Box 1080, Lexington, Kentucky 40501.

PUBLIC PROTECTION AND REGULATION CABINET
Kentucky Harness Racing Commission
(Proposed Amendment)

811 KAR 1:090. Stimulants and drugs.

RELATES TO: KRS 230.630(1), (3), 230.640, 230.700
PURSUANT TO: KRS 13.082, 230.630(3), (4), (7)

NECESSITY AND FUNCTION: To regulate conditions under which harness racing shall be conducted in Kentucky. The function of this regulation is to provide for the testing of horses for stimulants and drugs and the regulation of stimulants and drugs.

Section 1. (1) At every meeting except as stated herein where pari-mutuel wagering is permitted, the winning horse in every heat and/or race and the winning horse and second place horse in every perfecta race shall be subjected to a urine test for the purpose of determining thereby the presence of any drug, stimulant, sedative, depressant, or medicine. In addition, the judges at any meeting may order any other horse in any heat or race to be subjected to the urine test or any other test for the purpose of determining thereby the presence of any drug, stimulant, sedative, depressant or medicine. Also, the judges may order any horse in a race to be subjected to a urine, blood and/or saliva test. At all extended pari-mutuel meetings at least fifty (50) percent of the horses subjected to a urine test shall be given a blood test. Such horses to be selected by the presiding judge by lot. Such tests shall be made only by qualified veterinarians and by laboratories designated by the commission. In addition to the above, the winning horse and second horse in every heat or dash of a race at any track with a total purse in excess of \$5,000 shall be subjected to both blood and a urine test. However, such blood test shall be counted in determining the fifty (50) percent required above.

(2) The commission may, in its discretion, or at the request of a member, authorize or direct a saliva, blood, urine or other test of any horse racing at any meeting.

Section 2. (1) During the taking of the blood and/or urine sample by the veterinarian, the owner, trainer or authorized agent may be present at all times. Samples so taken shall be placed in two (2) containers and shall immediately be sealed and the evidence of such sealing indicated thereon by the signature of the representative of the owner or trainer. One part of the sample is to be placed in a depository under the supervision of the presiding judge and/or any other agency the commission may designate to be safeguarded until such time as the report on the chemical analysis of the other portion of the split sample is received.

(2) Should a positive report be received, an owner or trainer shall have the right to have the other portion of the split sample inserted in with a subsequent group being sent for testing or may demand that it be sent to another chemist for analysis, the cost of which will be paid by the party requesting the test.

Section 3. (1) Whenever there is a positive test finding the presence of any drug, stimulant, sedative or depressant present, in the post-race test, the laboratory shall immediately notify the presiding judge who shall immediately report such findings to the commission.

(2) When a positive report is received from the laboratory by the presiding judge, the persons held

responsible shall be notified and a thorough investigation shall be conducted by or on behalf of the judges. A time shall be set by the judges for a hearing to dispose of the matter. The time set for the hearing shall not exceed four (4) racing days after the responsible persons were notified. The hearing may be continued, if in the opinion of the judges, circumstances justify such action.

(3) Should the chemical analysis of saliva, blood, urine or other sample of the post-race test taken from a horse indicate the presence of a forbidden narcotic, stimulant, depressant, or local anesthetic, it shall be considered prima facie evidence that such has been administered to the horse. The trainer and any other person or persons who may have had the care of, or been in attendance of the horse, or are suspected of causing such condition shall be immediately stopped from participating in racing by the judges and shall remain inactive in racing pending the outcome of a hearing.

Section 4. Any person or persons who shall administer or influence or conspire with any other person or persons to administer to any horse any drug, medicament, stimulant, depressant, narcotic or hypnotic to such horse within forty-eight (48) hours of his race, shall be subject to penalties provided in this rule.

Section 5. Whenever the post-race test or tests prescribed in Section 1 disclose the presence in any horse of any drug, stimulant, depressant or sedative, in any amount whatsoever, it shall be presumed that the same was administered by the person or persons having control and/or care and/or custody of such horse with the intent thereby to affect the speed or condition of such horse and the result of the race in which it participated.

Section 6. A trainer shall be responsible at all times for the condition of all horses trained by him. No trainer shall start a horse or permit a horse in his custody to be started if he knows, or if by the exercise of reasonable care he might have known or have cause to believe, that the horse has received any drug, stimulant, sedative, depressant, medicine or other substance that could result in a positive test. Every trainer must guard or cause to be guarded each horse trained by him in such manner and for such period of time prior to racing the horse so as to prevent any person not employed by or connected with the owner or trainer from administering any drug, stimulant, sedative, depressant, or other substance resulting in a post-race positive test.

Section 7. Any owner, trainer, driver or agent of the owner, having the care, custody and/or control of any horse who shall refuse to submit such horse to a saliva test or other tests as herein provided or ordered by the judges shall be guilty of a violation of this rule. Any horse that refuses to submit to a pre-race blood test shall be required to submit to a post-race saliva and urine test regardless of its finish.

Section 8. Any horse in which an offense was detected under any section of this rule shall be placed last in the order of finish and all winnings of such horse shall be forfeited and paid over to the commission for redistribution among the remaining horses in the race entitled to same. No such forfeiture and redistribution of winnings shall affect the distribution of the pari-mutuel pools at tracks where pari-mutuel wagering is conducted, when such distribution of pools is made upon the official placing at the conclusion of the heat or dash.

Section 9. Pre-Race Blood Test. Where there is a pre-race blood test which shows that there is an element present in the blood indicative of a stimulant, depressant or any unapproved medicament, the horse shall immediately be scratched from the race and an investigation conducted by the officials to determine if there was a violation of Section 4.

Section 10. Hypodermic Syringe Prohibited. No person except a licensed veterinarian approved by the commission shall have within the grounds of a licensed harness race track in or upon the premises which he occupies, or has a right to occupy, or in his personal property or effects any hypodermic syringe, hypodermic needle, or other devices which can be used for the injection or other infusion into a horse of a drug, stimulant or narcotic. Every licensed harness racing association upon the grounds of which horses are lodged or kept, is required to use all reasonable effort to prevent violation of this rule.

Section 11. (1) *All veterinarians practicing on the grounds of an extended pari-mutuel meeting shall keep a daily log of their activities on a form provided by the commission and shall submit a copy of it to the commission office of the track each day of a race meeting. The log shall include: [All veterinarians practicing on the grounds of an extended pari-mutuel meeting shall keep a log of their activities including:]*

- (a) Name of horse.
- (b) Nature of ailment.
- (c) Type of treatment.
- (d) Date and hour of treatment.

(2) It shall be the responsibility of the veterinarian to report to the presiding judge any internal medication given by him by injection or orally to any horse after he has been declared to start in any race.

Section 12. (1) Any veterinarian practicing veterinary medicine on a race track where a race meeting is in progress or any other person using a needle or syringe shall use only one-time disposable type needles and a disposable needle shall not be reused. The disposable needles shall be kept in his possession until disposed of by him off the track.

(2) No veterinarian, assistant veterinarian or employee of same shall leave a needle or syringe with anyone on a race track where a race meeting is in progress except upon written authorization from the commission.

Section 13. The penalty for violation of any sections of this rule, unless otherwise provided, shall be a fine of not to exceed \$5,000, suspension for a fixed or indeterminate time, or both; or expulsion.

CARL LARSEN, Deputy Commissioner

ADOPTED: October 13, 1976

APPROVED: JAMES E. GRAY, Secretary

RECEIVED BY LRC: October 14, 1976 at 3:35 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Joan Rudnick, Executive Secretary, Kentucky Harness Racing Commission, 369 Waller Avenue, Lexington, Kentucky 40504.

PUBLIC PROTECTION AND REGULATION CABINET
Harness Racing Commission
(Proposed Amendment)

811 KAR 1:125. Pari-mutuel rules.

RELATES TO: KRS 230.630(1), (3); 230.640; 230.690; 230.710

PURSUANT TO: KRS 13.082, 230.630(3), (4), (7)

NECESSITY AND FUNCTION: To regulate conditions under which harness racing shall be conducted in Kentucky. The function of this regulation is to provide and regulate pari-mutuel wagering at race meetings.

Section 1. Equipment. (1) The commission considers it desirable for licensees to use vending machines for the sale of pari-mutuel tickets. All licensees will be required to employ the use of totalizer equipment or its equivalent of a type approved by the commission.

(2) The controls necessary to operate the odds board in the infield, relative to the way the horses finish, (if the finish is being contested, if there is a photo, dead heat, time or race) are to be located in the judge's stand and controlled only by the presiding judge, or one associate judge designated to do so.

Section 2. Definitions for Pari-Mutuel Rules. (1) For the purpose of pari-mutuel betting, every heat or dash shall be a separate and distinct race.

(2) Where the term "race" is used throughout the following rules, it shall not be considered to apply as if the term "heat" had been used. Wagering shall be prohibited on more than ten (10) races, heats excluded, during the course of a single racing program, provided that the commission may extend the number of races authorized.

Section 3. Tax. Each day's tax imposed by KRS Chapter 138 shall be remitted to the Kentucky Department of Revenue by the licensee by check or bank draft within twenty-four (24) hours after the close of the racing program. Such remittance shall be accompanied by a tax return executed by the licensee on a form furnished by the Kentucky Department of Revenue. A copy of said form will be filed daily with the commission.

Section 4. Sale of Pari-Mutuel Tickets. (1) Only one method of selling pari-mutuel tickets shall be used for the sale of tickets on individual races during any racing day.

(2) Unless prior commission approval has been obtained no pari-mutuel tickets shall be sold except through regular ticket windows properly designated by signs showing type of tickets sold at that particular window.

(3) No pari-mutuel tickets shall be sold on any race prior to thirty (30) minutes before scheduled off-time of that race, except daily double, perfecta, double perfecta, quinella and double quinella tickets may be sold one (1) hour before scheduled off-time.

(4) Book making or betting other than pari-mutuel betting is strictly prohibited.

(5) No minor shall be allowed to bet and no mutuel employee shall sell or pay a wager to a minor.

(6) All wagering shall stop as soon as the word "go"

shall be given by record or by voice of the starter. Vending machines for the sale of pari-mutuel tickets shall be electrically locked by the presiding judge from the judge's stand.

(7) When the sale of pari-mutuel tickets has closed, it shall remain closed until after the race has finished and has been declared official, unless an objection imposes a delay in which case the sale of pari-mutuel tickets for the next succeeding race may be begun without waiting for the race to be declared official.

(8) Without approval of the commission, no pari-mutuel ticket shall be sold for less than two dollars (\$2). Without approval of the commission, no pari-mutuel ticket combining win and place, win and show, or place and show, shall be sold for less than four dollars (\$4). Without approval of the commission, no pari-mutuel ticket combining win, place, and show, shall be sold for less than six dollars (\$6). Without approval of the commission, no pari-mutuel tickets for perfecta, double perfecta, quinella or double quinella combinations shall be sold for less than two dollars (\$2).

(9) The method of selling pari-mutuel tickets shall be approved by the commission.

(10) The manager of the pari-mutuel department shall be properly and timely advised by the presiding judge, prior to the beginning of wagering on each race, of the horses that will compete in the race.

(11) At meetings of more than ten (10) days, if less than six (6) interests qualify to start in a race, the manager of the pari-mutuel department, with the consent of the representative of the commission, shall be permitted to prohibit show wagering on that race.

(12) At meetings of more than ten (10) days, if less than five (5) interests qualify horses to start in a race, the said manager, with the consent of the representative of the Kentucky Harness Racing Commission shall be permitted to prohibit both place and show wagering on that race.

(13) At meetings of more than ten (10) days, if less than three (3) interests qualify horses to start in a race, the said manager, with the consent of the representative of the commission shall be permitted to prohibit wagering on that race.

(14) At meetings of more than ten (10) days, the said manager with the consent of the representative of the commission, may prohibit wagering on any particular horse or entry in any race. Such consent shall be sought by the manager of the pari-mutuel department from the representative of the commission. Such exclusions, if consented to by the representative of the commission, shall be clearly indicated on the program or score card or announced and horses excluded shall be numbered so as to in no way infer that they are coupled in "the field." Horses once excluded from the betting shall remain excluded during the day or race in which they are scheduled to start.

(15) When more horses representing separate interests are started in a race than the number of post positions on the infield tote board, all horses in excess of a number of interests one less than the total number of post positions on the infield tote board shall be grouped in the betting as the "field."

(16) A refund at cost value shall be made to all holders of a purchased ticket bearing the number of a horse in any race which has been scratched or withdrawn before said horse has become a starter in the race under the rules, unless such horse is part of an entry, and one (1) or more of said entry starts.

Section 5. Payments. (1) Payments due on all wagers shall be made in conformity with well established practice of the pari-mutuel system. The practice is to work in dollars and not in the number of tickets. Money wagered on winning tickets is returned in full plus the profits. In all cases of a winning mutuel pool each licensee must redistribute not less than one dollar and ten cents (\$1.10) on each one dollar (\$1) wager and two dollars and twenty cents (\$2.20) on each two dollars (\$2) wager.

(2) At the end of each race, the judges shall advise the manager of the pari-mutuel department by the use of tote equipment or by telephone of the official placement of the horses, and no payoffs shall be made until the receipts of such notice.

(3) If a horse wins and there is no money wagered on him to win, the win pool shall be apportioned among the holders of the place tickets on that horse, if any, otherwise among holders of the show tickets.

(4) If no money has been wagered to place on a horse which is placed first or second in a race, the place pool for that race shall be apportioned among the holders of the place tickets on the other horse which was placed first or second.

(5) If no money has been wagered to show on a horse which has placed first, second or third in a race, the show pool in that race shall be apportioned among the holders of show tickets on the other horses which are placed first, second or third in that race.

(6) In the event that only two (2) horses finish in any one (1) race, the show pool shall be figured the same as the place pool and monies apportioned to the holders of show tickets on the two (2) finishing horses. In the event only one (1) horse finishes in any one (1) race all three (3) pools shall be figured separately as straight pools and all the monies shall be awarded to the ticket holders of the finishing horse. In the event no horse finishes the race, then the entire pool shall be refunded to all ticket holders.

(7) If two (2) horses finish in a dead heat for first place, the money in the win mutuel pool is divided between the two (2) dead-heaters according to their proportionate shares in the pool.

(8) If two (2) horses finish in a dead heat for second place, the division is made as follows: There shall be allotted to the pool of the winner of the race one-half ($\frac{1}{2}$) of the place pool and the two (2) dead-heaters one-half ($\frac{1}{2}$) each of the remaining half of the place pool.

(9) If two (2) horses coupled in the betting as an "entry" or "the field" finish first and second, first and third, or second and third, two-thirds ($\frac{2}{3}$) of the net show pool shall be allotted to the pool of the entry and the balance one-third ($\frac{1}{3}$) to the other horse.

(10) In the event that one (1) horse of the entry or the field finishes first or second and the other part of the

entry or field finishes in a dead heat for third with another horse, the division of the net show pool shall be as follows: one-half ($\frac{1}{2}$) of the net show pool shall be allotted to the pool of the entry, one-third ($\frac{1}{3}$) to the non-entry horse not involved in the dead heat, and one-sixth ($\frac{1}{6}$) to the non-entry horse finishing in the dead heat.

(11) If the entry or field horses should finish first, second and third, the entire money in each pool goes to the entry or field tickets, no other tickets participating.

(12) No mutilated pari-mutuel ticket that is not easily identifiable as being a valid ticket shall be accepted for payment.

(13) No claims for lost pari-mutuel tickets shall be considered.

(14) In the event an error is made in calculation resulting in a price being too high, the association shall lose such amount between the proper price and the one paid. If the error in calculation results in a price being too low, such amount between proper price and price paid shall be added to the net pool of the same position in the following race on the same day or if it is the last race of the day then it shall be added to the net pool of the same position in the same race on the following day. If such an error occurs causing underpayment on the last race of the entire racing meeting, the underpayment shall be paid to the Kentucky Department of Revenue.

Section 6. Daily Doubles. (1) Positively no exchange of daily double tickets after purchaser thereof has left the sales window.

(2) The daily double is not a parlay, and has no connection with or relation to the "tote" betting. All tickets on the daily double will be calculated in an entirely separate pool. Without prior commission approval, only one (1) daily double will be permitted during any single program.

(3) All tickets will be to win (straight) only. Entries and the field run as one (1) horse in the daily double. If two (2) or more horses in a race are coupled on the same totalizator ticket, there shall be no refunds, unless all of the horses so coupled are excused before off time.

(4) Selections are to be made of one (1) horse for each of two (2) races in the daily double by "tote" program numbers.

(5) If no ticket is sold combining the two (2) winners of the daily double, the pool shall then be apportioned equally between those having tickets including the winner in the first race of the daily double and those having tickets including the winner in the second race of the daily double in the same manner in which a place pool is calculated and distributed.

(6) If no ticket is sold on the winner of the first race of the daily double on any combination, the entire pool is apportioned to the holders of tickets on the winner of the second race of the daily double. Likewise, if no ticket is sold on the winner of the second race of the daily double or any combination, the entire pool is apportioned to the holders of tickets on the winner of the first race of the daily double.

(7) If a dead heat to win should result in either the first or second race of the daily double, the total pool is calculated as a place pool. In case of a dead heat for the winner of the first race of the daily double, the posting of payoff prices will be made after winner of second race of the daily double is official.

(8) Should no ticket be sold containing the numbers of either winner on any combination, the pool shall be allotted to those having tickets on horses finishing next to the winners.

(9) In the event any horse or horses in the first half of the daily double should be excused by the judges after the horses shall have left the paddock for the post, or after the betting on the daily double has been closed, or should any horse or horses in the first half of the daily double be prevented from racing because of failure of the arm or arms of the starting gate to open, the money wagered on any horse or horses so excused or prevented from racing shall be deducted from the daily double pool and refunded to the purchaser or purchasers of tickets on the horse or horses so excused or prevented from racing.

(10) If a horse is scratched from the second half of the daily double before it becomes a starter in the second half, but after the first half of the daily double has been run, all daily double tickets combining the scratched horse in the second race of the daily double with the actual winner of the first race of the daily double shall be paid a price equivalent to that fraction of the net pool derived by dividing the net pool by the total purchase price of all tickets combining the winner of the first race of the daily double with all horses in the second race of the daily double. The total payoff on all tickets combining the winner of the first race of the daily double with the scratched horse in the second race of the daily double as determined by the method set forth in this rule shall be deducted from the net daily double pool.

(11) The possible payoff prices shall be posted or announced to the public before the start of the last race of the daily double, and as soon as possible after the horses in the race of the last half of the daily double have entered upon the track on the way to the post.

(12) *If for any reason the second race of the daily double is cancelled or declared "no race" by the judges after the first daily double race is declared official, then the net daily double pool shall be distributed to wagering combinations which include the horse or betting interest which finished first in the first daily double race.* [In case the second half of the daily double is not raced due to rain, or for any other cause, the entire pool shall be returned to the holders of tickets on the daily double.]

(13) If a daily double is scheduled to be held, subsections (1) to (12) of this section shall be printed in conspicuous places in the grandstand area and an abbreviated version shall be printed on the day's racing program, and notice printed on said program as follows: "Retain Your Tickets Until The Result Of the Daily Double Has Been Posted."

Section 7. Perfecta Wagering. (1) The "perfecta" (also known as exacta or correcta) is a contract by the purchaser of a ticket combining two (2) horses in a single race, selecting the two (2) horses that will subsequently finish first and second in that race. Payment of the ticket shall be made only to the purchaser who has selected the same order of finish as officially posted.

(2) The perfecta is not a "parlay" and has no connection with or relation to the win, place and show betting and will be calculated as an entirely separate pool.

(3) If no ticket is sold on the winning combination of

a perfecta pool, the net pool shall be distributed equally between holders of tickets selecting the winning horse to finish first and/or holders of tickets selecting the second place horse to finish second.

(4) If no ticket is sold that would require distribution of a perfecta pool to winner as above defined, the association shall make a complete and full refund of perfecta pool.

(5) In case of a dead heat between two (2) horses for first place the net perfecta pool shall be calculated and distributed as a place pool to holders of tickets of the winning combination(s). In case of a dead heat between two (2) horses for second place, the perfecta pool shall be figured as a place pool, the holders of tickets combining the winning horse and the two (2) horses finishing second participating in the payoff.

(6) In the event of a dead heat for second place, if no ticket is sold on one (1) of the two (2) winning combinations, the entire net pool shall be calculated as a win pool and distributed to those holding tickets on the other winning combination. If no tickets combine the winning horse with either of the place horses in the dead heat, the perfecta pool shall be calculated and distributed as a place pool to holders of tickets representing any interest in the net pool.

(7) No entries or field horses shall be allowed in any race that the perfecta is being sold.

Section 8. Quinella Wagering. (1) The "quinella" is a form of pari-mutuel wagering consisting of selecting the first two (2) horses to finish, irrespective of their place of finish.

(2) The quinella is not a "parlay" and has no connection with or relations to the win, place or show betting and will be calculated as an entirely separate pool.

(3) In case of a dead heat between two (2) horses for first place, the combination shall be the winner of the quinella pool. In case of a dead heat between two (2) horses for second place, the quinella pool shall be figured as a place pool, the holders of tickets combining the winning horse and the two (2) horses finishing second participating in the payoff.

(4) In the event of a dead heat for second place, if no ticket is sold on one (1) of the winning combinations, the entire net pool shall be calculated as a win pool and distributed to those holding tickets on the other winning combination. If no tickets combine the winning horse with either of the place horses in the dead heat, the net pool shall be calculated and distributed as a place pool to holders of tickets combining either of the place horses; however, if any tickets combine both horses in the dead heat for place, the net pool shall be calculated and distributed as a win pool to holders of such tickets.

(5) If no ticket is sold on the winning combination of a quinella pool, the net pool shall then be apportioned equally between those having tickets including the horse finishing first and those having tickets including the horse finishing second in the same manner in which a place pool is calculated and distributed.

(6) If no ticket is sold that would require distribution of a quinella pool to a winner as above defined, the association shall make a complete and full refund of the

quinella pool.

(7) If a perfecta and/or quinella is scheduled to be held, each association shall print an abbreviated version of this rule on the day's racing program.

Section 9. Double Perfecta Wagering. (1) The double perfecta is a form of pari-mutuel wagering in which the bettor selects the two (2) horses that will finish first and second in each of two (2) consecutive races in the exact order as officially posted.

(2) Double perfecta tickets shall be sold only at double perfecta windows and only from automatic double issue machines.

(3) Each bettor purchasing double perfecta tickets shall designate his two (2) selections as the first two (2) horses to finish in that order in the first of two (2) consecutive races.

(4) After the official declaration of the first two (2) horses to finish in the first race of the double perfecta, each bettor holding a ticket combining the first two (2) horses in the exact order of finish must, prior to the running of the second double perfecta race exchange ticket at the double perfecta window and at such time shall select the two (2) horses to finish in the second race of the double perfecta in the exact order as officially posted. No further money shall be required of the holder of the ticket in order to make the exchange.

(5) No double perfecta exchange ticket upon the second race shall be issued except upon the surrender of the double perfecta ticket from the first race as described in these rules. The double perfecta pool obtained from the sales of double perfecta tickets upon the first race shall be held, subject to these rules, and divided among the winning tickets of the double perfecta exchange tickets, subject to those rules to the contrary. Double perfecta windows shall be open for the purpose of making the exchange as described only after the first race has been declared official.

(6) If a winning double perfecta ticket from the first race is not presented for exchange within the time provided the bettor forfeits all rights to any distribution or refund except in the event the second half of the double perfecta is cancelled or declared "no race."

(7) If a horse is scratched in the first race of the double perfecta races, all double perfecta tickets on the scratched horse will be refunded.

(8) If a horse is scratched in the second race of the double perfecta, after the first race of the double perfecta has been declared official, all exchange tickets combining the scratched horse shall become consolation tickets and shall be paid a price per dollar denomination calculated as follows: the net double perfecta pool (gross pool less commission) shall be divided by the total purchase price of all tickets combining the winners of the first race of the double perfecta. The quotient thus obtained shall be the price to be paid to holders of exchange tickets combining the scratched horse in the second race of the double perfecta. The entire consolation pool (number of eligible tickets times the consolation price) shall be deducted from the net double perfecta pool.

(9) If no double perfecta ticket is sold as a winning combination in the first race of the double perfecta, the double perfecta pool shall be divided among those hav-

ing tickets including the horse finishing first and those having tickets including the horse finishing second and such distributions shall be calculated and made as a place pool. In such an instance the double perfecta race shall end and the pool be closed for the day.

(10) If no double perfecta exchange ticket is sold on the winning combination the net pool shall then be apportioned equally between those having tickets including the horse finishing first and those having tickets including the horse finishing second in the same manner in which a place pool is calculated and distributed.

(11) If a double perfecta exchange ticket combines only one (1) of the two (2) winners and no double perfecta exchange ticket combines the other winner, the entire pool shall be distributed as a straight pool to the holders of those tickets.

(12) If no exchange ticket includes either the first or second horse of the second half of the double perfecta the entire net pool shall be distributed as a straight pool to all holders of exchange tickets.

(13) In the event of a dead heat for place in the first race of the double perfecta races, all double perfecta tickets combining the first horse and either of the place horses shall be eligible for exchange for double perfecta exchange tickets.

(14) In the event of a dead heat for place in the second race of the double perfecta, the double perfecta pool shall be divided, calculated and distributed as a place pool to the holders of double perfecta exchange tickets combining the first horse and either of the place horses. In the event of the dead heat to place and there are no tickets sold on one combination, then the other combination having the winning horses shall be declared the winner. If no exchange tickets combining the winning horse with either of the place horses in the dead heat, the double perfecta pool shall be calculated and distributed as a win pool to holders of tickets representing any interest in the net pool.

(15) If for any reason the second of the double perfecta races is cancelled or declared "no race," the pool shall be calculated as a straight pool and shall be distributed among the holders of the tickets combining the first two (2) horses of the first race of the double perfecta otherwise eligible for double perfecta exchange tickets and also distributed to holders of the double perfecta exchange tickets.

(16) If there is a dead heat for the winning horse in either of the two (2) consecutive races for the double perfecta, such calculation of distribution of the double perfecta pool shall be made in the manner in which any ordinary perfecta pool would be made should there be a dead heat for the win despite the number of horses involved in the dead heat.

(17) The purchase of double perfecta tickets other than through pari-mutuel machines and the sale of double perfecta tickets from one individual to another shall be deemed illegal and is prohibited.

Section 10. Big "Q" Rules (1) Each operator wishing to conduct Big "Q" wagering must first petition the board for permission to do so.

(2) Each operator shall either print in the daily pro-

gram or prominently post at all areas where Big Q wagering is conducted the complete rules for Big Q wagering as set forth in the following sections:

(a) The Big Q consists of selecting the quinella (the first two (2) horses to finish) of each of two (2) consecutive races. Pari-mutuel wagering tickets are to be sold upon the first race of the two (2) races only. The division of the pool shall be calculated as in a straight pool, subject to provisions of these rules to the contrary.

(b) No entries or field horses shall be allowed to start in any race comprising the Big Q.

(c) Tickets shall be sold only at Big Q windows and only from automatic double issuing machines.

(d) Each bettor purchasing tickets shall designate his two (2) selections as the first two (2) horses to finish in the first race of the two (2) races.

(e) After the official declaration of the first two (2) horses to finish the first of the Big Q races, each bettor holding a ticket combining the said two (2) horses to finish must, prior to the running of the second race, exchange such winning ticket for a Big Q exchange ticket at the Big Q windows and at such time the said holder shall select the first two (2) horses to finish in the second race of the Big Q. No further money shall be required of the holder of the ticket in order to make the exchange.

(f) No Big Q exchange ticket upon the second race shall be issued except upon the surrender of the Big Q ticket from the first race as described in these sections. The Big Q pool obtained from the sales of the Big Q tickets upon the first race shall be held subject to these sections, and divided among the winning tickets of the Big Q exchange tickets, subject to these sections to the contrary. Big Q windows shall be open for the purpose of making the exchange as described only after the first race has been declared official and such windows shall close at post time at the start of the second race of the Big Q races.

(g) If a winning Big Q ticket from the first race is not presented for exchange within the time provided, the bettor forfeits all rights to any distribution or refund except in the event the second half of the Big Q is cancelled or declared "no race" or if no exchange ticket includes either the first or second horse of the second half of the Big Q.

(h) If a horse is scratched in the first race, all Big Q tickets on the scratched horse will be refunded. If a horse is scratched in the second race, the holders of tickets on the scratched horse will be entitled to exchange their tickets for another selection. In the event of a late scratch, after the exchange windows have been closed, all exchange tickets combining the scratched horse shall become consolation tickets and shall be paid a price per dollar denomination calculated as follows: The net Big Q pool (gross pool less commission) shall be divided by the total purchase price of all tickets combining the winnings of the first race of the Big Q. The quotient thus obtained shall be the price to be paid to holders of exchange tickets combining the scratched horse in the second race of the Big Q. The entire consolation pool (number of eligible tickets times the consolation price) plus the breakage shall be deducted from the net Big Q pool.

(i) If no ticket is sold as a winning combination in the first race of the Big Q, the Big Q pool shall be divided among those having tickets including the horse finishing first or second and such distributions shall be calculated and made as a place pool. In such an instance, the Big Q race shall end and the pool be closed for the day.

(j) If no Big Q exchange ticket is sold on the winning combination, the net pool shall be apportioned equally between those having tickets including the horse finishing second in the same manner in which a place pool is calculated and distributed.

(k) If a Big Q exchange ticket combines only one (1) of the winners and no Big Q exchange ticket combines the other winner, the entire pool shall be distributed as a straight pool to the holders of those tickets.

(l) If no exchange ticket includes either the first or second horse of the second half of the Big Q, the entire net pool will be distributed as a straight pool to all holders of exchange tickets and winning combinations of the first half that have not been exchanged.

(m) In the event of a dead heat for place in the first race of the Big Q races all Big Q tickets combining the first horse and either of the place horses shall be eligible for exchange for Big Q exchange tickets.

(n) In the event of a dead heat for place in the second race of the Big Q races the pool will be divided, calculated and distributed as a place pool to the holders of Big Q exchange tickets combining the first horse and either of the place horses. In the event of the dead heat to place and there are no tickets sold on one combination, then the other combination having winning horses shall be declared the winner.

(o) If no exchange tickets combine the winning horse with either of the place horses in the dead heat, the Big Q pool shall be calculated and distributed as a place pool to holders of tickets combining either of the place horses, however if any exchange tickets combine both horses in the dead heat for place, the Big Q pool shall be calculated and distributed as a place pool to holders of such tickets.

(p) If for any reason the first race of the Big Q races is cancelled or declared "no race" full and complete refund shall be made from the Big Q pool.

(q) If for any reason, the second of the Big Q races is cancelled or declared "no race" the pool shall be calculated as a straight pool and shall be distributed among the holders of tickets combining the first two (2) horses of the first race of the Big Q otherwise eligible for Big Q exchange tickets and also distributed to holders of the Big Q exchange tickets.

(r) If there is a dead heat for the winning horses in either of the two (2) consecutive races for the Big Q such calculation of distribution of the Big Q pool shall be made in the manner in which any ordinary quinella pool would be made should there be a dead heat for the win despite the number of horses involved in the dead heat.

(s) In the event that an incorrect exchange ticket is issued during the second half of the Big Q pool, such incorrect exchange ticket must be turned in to the State Auditor prior to the running of the second half. Said

tickets shall be deducted from both exchange and individual combination totals. The ticket shall be voided and filed with the performance worksheets and a report including the seller's name and license number, shall be made to the board of the complete incident.

Section 11. Types of Wagering Allowed. The following types of wagering shall be permitted at all tracks given racing dates by the commission: (1) Normal win, place, and show betting on each race.

(2) A daily double on the first and second races.

(3) Any other methods of betting approved in advance by the commission.

CARL LARSEN, Deputy Commissioner

ADOPTED: April 13, 1976

APPROVED:

JAMES E. GRAY, Secretary

RECEIVED BY LRC: September 20, 1976 at 11:30 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Joan Rudnick, Executive Secretary, Kentucky Harness Racing Commission, 369 Waller Avenue, Lexington, Kentucky 40504.

DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council
(Proposed Amendment)

902 KAR 1:015. Tripeleppamine Hydrochloride.

RELATES TO: KRS 217.814 to 217.826, 217.990(9)(10)

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: KRS 217.819 directs the Kentucky Drug Formulary Council to prepare a formulary of drugs and pharmaceuticals with their generic or chemical names that are determined by the council to be therapeutically equivalent to specified brand name drugs and pharmaceuticals. This regulation lists Tripeleppamine Hydrochloride pharmaceutical products by their generic and brand names that have been determined by the council to be therapeutically equivalent.

Section 1. Tripeleppamine Hydrochloride Pharmaceutical Products. The following tripeleppamine hydrochloride tablet pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage: Tripeleppamine Hydrochloride 50 mg. Tablet Form:

(1) Pyribenzamine: Ciba Pharmaceutical Company;

(2) Tripeleppamine Hydrochloride: Kasar Laboratories, Midway Medical Company, [and] Richie Pharmacal, and United Research Laboratories.

KENNETH P. CRAWFORD, M.D., Chairperson

ADOPTED: October 7, 1976

APPROVED:

C. LESLIE DAWSON, Secretary

RECEIVED BY LRC: October 12, 1976 at 10 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Mrs. Dorothy Barnes, Kentucky Drug Formulary Council, 275 East Main Street, Frankfort, Kentucky 40601.

**DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council
(Proposed Amendment)**

902 KAR 1:025. Pentaerythritol Tetranitrate.

RELATES TO: KRS 217.814 to 217.826,
217.990(9)(10)

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: KRS 217.819 directs the Kentucky Drug Formulary Council to prepare a formulary of drugs and pharmaceuticals with their generic or chemical names that are determined by the council to be therapeutically equivalent to specified brand name drugs and pharmaceuticals. This regulation lists Pentaerythritol Tetranitrate pharmaceutical products by their generic and brand names that have been determined by the council to be therapeutically equivalent.

Section 1. Pentaerythritol Tetranitrate Pharmaceutical Products. The following Pentaerythritol Tetranitrate tablet pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage:

(1) Pentaerythritol Tetranitrate 10mg. Tablet Form:

(a) Midapet: Midway Medical Company;

(b) Pentaerythritol Tetranitrate: Geneva Drugs, Ltd., Geneva Generics, *Lederle Laboratories*, Murray Drug Corporation, Pace-Bond Drug Company, Paramount Surgical Supply Company, Philips-Roxane Laboratories, Richie Pharmacal, Zenith Laboratories, Inc.;

(c) Peritrate: Warner/Chilcott; and

(d) Tetrate: Vanguard Laboratories.

(2) Pentaerythritol Tetranitrate 20 mg. Table Form:

(a) Midapet: Midway Medical Company;

(b) Pentaerythritol Tetranitrate: Geneva Drugs, Ltd., Geneva Generics, *Lederle Laboratories*, Murray Drug Corporation, Pace-Bond Drug Company, Paramount Surgical Supply Company, Philips-Roxane Laboratories, Richie Pharmacal, Zenith Laboratories, Inc.;

(c) Peritrate: Warner/Chilcott; and

(d) Tetrate: Vanguard Laboratories.

KENNETH P. CRAWFORD, M.D., Chairperson

ADOPTED: October 7, 1976

APPROVED: C. LESLIE DAWSON, Secretary

RECEIVED BY LRC: October 12, 1976 at 10 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Mrs. Dorothy Barnes, Kentucky Drug Formulary
Council, 275 East Main Street, Frankfort, Kentucky 40601.

**DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council
(Proposed Amendment)**

902 KAR 1:035. Chlorpheniramine Maleate.

RELATES TO: KRS 217.814 to 217.826,
217.990(9)(10)

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: KRS 217.819 directs the Kentucky Drug Formulary Council to prepare a formulary of drugs and pharmaceuticals with their generic or chemical names that are determined by the council to be therapeutically equivalent to specified brand name drugs

and pharmaceuticals. This regulation lists Chlorpheniramine Maleate pharmaceutical products by their generic and brand names that have been determined by the council to be therapeutically equivalent.

Section 1. Chlorpheniramine Maleate Pharmaceutical Products. The following chlorpheniramine maleate tablet pharmaceutical products are determined to be therapeutically equivalent: Chlorpheniramine Maleate 4 mg. Tablet Form:

(1) Chlorpheniramine Maleate: Columbia Medical Company, Geneva Generics, ICN Pharmaceuticals, Kasar Laboratories, Lederle Laboratories, Philips-Roxane Laboratories, Richie Pharmacal, and *United Research Labs*;

(2) Chlor-Trimeton: Schering Corporation;

(3) C.P.M.: Midway Medical Company.

KENNETH P. CRAWFORD, M.D., Chairperson

ADOPTED: October 7, 1976

APPROVED:

C. LESLIE DAWSON, Secretary

RECEIVED BY LRC: October 12, 1976 at 10 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Mrs. Dorothy Barnes, Kentucky Drug Formulary
Council, 275 East Main Street, Frankfort, Kentucky 40601.

**DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council
(Proposed Amendment)**

902 KAR 1:080. Acetaminophen.

RELATES TO: KRS 217.814 to 217.826,
217.990(9)(10)

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: KRS 217.819 directs the Kentucky Drug Formulary Council to prepare a formulary of drugs and pharmaceuticals with their generic or chemical names that are determined by the council to be therapeutically equivalent to specified brand name drugs and pharmaceuticals. This regulation lists Acetaminophen pharmaceutical products by their generic and brand names that have been determined by the council to be therapeutically equivalent.

Section 1. Acetaminophen Tablet Pharmaceutical Products. The following acetaminophen tablet pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage: Acetaminophen 325 mg. Tablet Form:

(1) Acetaminophen: Alliance Labs., Beecham-Massengill Pharmaceuticals, Lederle Laboratories, Mylan Pharmaceuticals, Philips-Roxane Labs.;

(2) APAP: Richie Pharmacal, Vanguard Laboratories;

(3) Apenol: Purepac Pharmaceuticals, Rondex Laboratories;

(4) Nebs: Eaton Laboratories;

(5) SK-APAP: Smith, Kline & French Labs.;

(6) Tapar: Parke, Davis & Company;

(7) Tempra: Mead Johnson & Company;

(8) Tylenol: McNeil Laboratories;

(9) Valadol: E. R. Squibb & Sons.

Section 2. Acetaminophen Drops Pharmaceutical Products. The following acetaminophen drops

pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage: Acetaminophen 60 mg/0.6 ml Drops:

- (1) Temptra: Mead Johnson & Company; and
- (2) Tylenol: McNeil Laboratories.

Section 3. Acetaminophen Liquid Pharmaceutical Products. The following acetaminophen pharmaceutical products: liquid suspension 120 mg. 5 ml and elixir 120 mg/5 ml are considered to be therapeutically equivalent with the respective dosage form. Acetaminophen Liquid Suspension and Elixir 120 mg/5 ml: (Cautionary Note: While all these products have been evaluated as being therapeutically equivalent on the basis of their active drug components, "appropriate dispensing precautions" should be exercised for those individuals who are either diabetic or on contradicted drugs.)

- (1) Acetaminophen: Abbott Laboratories, Beecham-Massengill Pharmaceuticals, *Lederle Laboratories*;
- (2) APAP Elixir: Richie Pharmacal, Vanguard Laboratories;
- (3) Cen-Apap: The Central Pharmacal Co.;
- (4) Nebs: Eaton Laboratories;
- (5) SK-APAP: Smith, Kline & French Labs.;
- (6) Tapar: Parke, Davis & Company;
- (7) Temptra Syrup: Mead Johnson & Company;
- (8) Tylenol: McNeil Laboratories; and
- (9) Valadol Liquid: E. R. Squibb & Sons.

KENNETH P. CRAWFORD, M.D., Chairperson

ADOPTED: October 7, 1976

APPROVED: C. LESLIE DAWSON, Secretary

RECEIVED BY LRC: October 12, 1976 at 10 a.m.

SUBMIT COMMIT OR REQUEST FOR HEARING TO: Mrs. Dorothy Barnes, Kentucky Drug Formulary Council, 275 East Main Street, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council
(Proposed Amendment)

902 KAR 1:085. Isosorbide Dinitrate.

RELATES TO: 217.814 to 217.826, 217.990(9)(10)

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: KRS 217.819 directs the Kentucky Drug Formulary Council to prepare a formulary of drugs and pharmaceuticals with their generic or chemical names that are determined by the council to be therapeutically equivalent to specified brand name drugs and pharmaceuticals. This regulation lists Isosorbide Dinitrate pharmaceutical products by their generic and brand names that have been determined by the council to be therapeutically equivalent.

Section 1. Isosorbide Dinitrate Pharmaceutical Products. The following isosorbide dinitrate tablet pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage:

- (1) Isosorbide Dinitrate 5 mg. Oral Table Form:
 - (a) Isosorbide Dinitrate: Geneva Generics, Lederle Laboratories, Murray Drug Corporation;
 - (b) Isordil: Ives Laboratories, Inc.; and
 - (c) Sorbitrate: Stuart Pharmaceuticals.
- (2) Isosorbide Dinitrate 10 mg. Oral Tablet Form:
- (a) Isosorbide Dinitrate: Geneva Generics, Lederle

Laboratories, Murray Drug Corporation, *United Research Laboratories*;

- (b) Isordil: Ives Laboratories, Inc.; and
- (c) Sorbitrate: Stuart Pharmaceuticals.

KENNETH P. CRAWFORD, M.D., Chairperson

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DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council
(Proposed Amendment)

902 KAR 1:140. Sulfisoxazole Tablet.

RELATES TO: KRS 217.814 to 217.826, 217.990(9)(10)

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: KRS 217.819 directs the Kentucky Drug Formulary Council to prepare a formulary of drugs and pharmaceuticals with their generic or chemical names that are determined by the council to be therapeutically equivalent to specified brand name drugs and pharmaceuticals. This regulation lists Sulfisoxazole pharmaceutical products by their generic and brand names that have been determined by the council to be therapeutically equivalent.

Section 1. Sulfisoxazole Tablet Pharmaceutical Products. The following sulfisoxazole tablet pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage: Sulfisoxazole 500 mg. Tablet Form:

- (1) Gantrisin: Roche Laboratories;
- (2) SK-soxazole: Smith, Kline and French, Laboratories;
- (3) Sulfalar: Parke, Davis and Company;
- (4) Sulfisoxazole: Alliance Labs., Inc., Geneva Generics, Kasar Laboratories, Lederle Laboratories, Mylan Pharmaceuticals, Inc., Parmed Pharmaceuticals, Richie Company, *United Research Laboratories*; and
- (5) V-sul: Vanguard Laboratories.

KENNETH P. CRAWFORD, M.D., Chairperson

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APPROVED: C. LESLIE DAWSON, Secretary

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DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council
(Proposed Amendment)

902 KAR 1:150. Hydrochlorothiazide Tablet.

RELATES TO: KRS 217.814 to 217.826, 217.990(9)(10)

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: KRS 217.819 directs

the Kentucky Drug Formulary Council to prepare a formulary of drugs and pharmaceuticals with their generic or chemical names that are determined by the council to be therapeutically equivalent to specified brand name drugs and pharmaceuticals. This regulation lists Hydrochlorothiazide pharmaceutical products by their generic and brand names that have been determined by the council to be therapeutically equivalent.

Section 1. Hydrochlorothiazide Tablet Pharmaceutical Products. The following Hydrochlorothiazide tablet pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage:

- (1) Hydrochlorothiazide 25 mg. Tablet Form:
 - (a) Esidrix: Ciba Pharmaceutical Company;
 - (b) Hydrochlorothiazide: Columbia Medical Company, Geneva Drugs, Ltd., Midway Medical Company, Murray Drug Corporation, Paramount Surgical Supply Corporation, *Rexall Drug Company*, Richie Pharmacal Company, *United Research Laboratories*, Zenith Laboratories, Incorporated;
 - (c) Hydrodiuril: Merck Sharp and Dohme;
 - (d) Oretic: Abbot Laboratories;
 - (e) Thiadril: Vanguard Laboratories; and
 - (f) Thiuretic: Parke Davis & Company.
- (2) Hydrochlorothiazide 50 mg. Tablet Form:
 - (a) Esidrix: Ciba Pharmaceutical Company;
 - (b) Hydrochlorothiazide: Columbia Medical Company, Geneva Drugs, Ltd., Midway Medical Company, Murray Drug Corporation, Paramount Surgical Supply Corporation, *Rexall Drug Company*, Richie Pharmacal Company, *United Research Laboratories*, Zenith Laboratories, Incorporated;
 - (c) Hydrodiuril: Merck Sharp and Dohme;
 - (d) Oretic: Abbott Laboratories;
 - (e) Thiadril: Vanguard Laboratories; and
 - (f) Thiuretic: Parke Davis & Company.

KENNETH P. CRAWFORD, M.D., Chairperson
ADOPTED: October 7, 1976

APPROVED: C. LESLIE DAWSON, Secretary
RECEIVED BY LRC: October 12, 1976 at 10 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Mrs. Dorothy Barnes, Kentucky Drug Formulary Council, 275 East Main Street, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council
(Proposed Amendment)

902 KAR 1:160. Oxytetracycline Hydrochloride Capsule.

RELATES TO: KRS 217.814 to 217.826, 217.990(9)(10)

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: KRS 217.819 directs the Kentucky Drug Formulary Council to prepare a formulary of drugs and pharmaceuticals with their generic or chemical names that are determined by the council to be therapeutically equivalent to specified brand name drugs and pharmaceuticals. This regulation lists Oxytetracycline Hydrochloride pharmaceutical products by their generic and brand names that have been determined by the council to be therapeutically equivalent.

Section 1. Oxytetracycline Hydrochloride Capsule Pharmaceutical Products. The following Oxytetracycline Hydrochloride Capsule pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage: Oxytetracycline Hydrochloride 250 mg., Capsule Form:

- (1) Oxlopar: Parke Davis;
- (2) Oxy-Kesso-Tetra: McKesson Laboratories;
- (3) Oxy-Tetrachel: Rachele Laboratories;
- (4) *Oxytetracycline Hydrochloride: *Cooper Drug Company*, Lederle Laboratories, Purepac Pharmaceuticals, Rondex Laboratories, Richie Pharmacal, and *United Research Laboratories*;
- (5) Terramycin: Pfizer Laboratories.

*Therapeutic equivalence is determined for *Cooper Drug Company*, *Purpac Pharmaceuticals*, *Rondex Laboratories* and *United Research Laboratories* only if manufactured after June, 1975.

KENNETH P. CRAWFORD, M.D., Chairperson
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TO: Mrs. Dorothy Barnes, Kentucky Drug Formulary Council, 275 East Main Street, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council
(Proposed Amendment)

902 KAR 1:230. Dimenhydrinate Tablet.

RELATES TO: KRS 217.814 to 217.826, 217.990(9)(10)

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: KRS 217.819 directs the Kentucky Drug Formulary Council to prepare a formulary of drugs and pharmaceuticals with their generic or chemical names that are determined by the council to be therapeutically equivalent to specified brand name drugs and pharmaceuticals. This regulation lists Dimenhydrinate pharmaceutical products by their generic and brand names that have been determined by the council to be therapeutically equivalent.

Section 1. Dimenhydrinate Tablet Pharmaceutical Products. The following dimenhydrinate tablet pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage: Dimenhydrinate 50 mg. Tablet Form:

- (1) Dimenhydrinate: Kasar Laboratories, Midway Medical Company, Richie Pharmacal Co., *United Research Laboratories*;
- (2) Dramamine: Searle Laboratories; and
- (3) Motion-Aid: Vanguard Laboratories.

KENNETH P. CRAWFORD, M.D., Chairperson
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APPROVED: C. LESLIE DAWSON, Secretary
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TO: Mrs. Dorothy Barnes, Kentucky Drug Formulary Council, 275 East Main Street, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council
(Proposed Amendment)

902 KAR 1:270. Pseudoephedrine Hydrochloride.

RELATES TO: KRS 217.814 to 217.826,
217.990(9)(10)

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: KRS 217.819 directs the Kentucky Drug Formulary Council to prepare a formulary of drugs and pharmaceuticals with their generic or chemical names that are determined by the council to be therapeutically equivalent to specified brand name drugs and pharmaceuticals. This regulation lists Pseudoephedrine Hydrochloride pharmaceutical products by their generic and brand names that have been determined by the council to be therapeutically equivalent.

Section 1. Pseudoephedrine Hydrochloride Tablet Pharmaceutical Products. The following pseudoephedrine hydrochloride tablet pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage:

(1) Pseudoephedrine Hydrochloride 30 mg. Tablet Form:

(a) Pseudoephedrine Hydrochloride: Geneva Drugs, Ltd., Midway Medical Co., Murray Drug Corporation, Pace-Bond Drug Co., Paramount Surgical Supply Corp., Zenith Laboratories;

(b) Sudafed: Burroughs Wellcome.

(2) Pseudoephedrine Hydrochloride 60 mg. Tablet Form:

(a) Pseudoephedrine Hydrochloride: *Cooper Drug Company*, Geneva Drugs, Ltd., Midway Medical Co., Murray Drug Corporation, Pace-Bond Drug Co., Paramount Surgical Supply Corp., Zenith Laboratories;

(b) Sudafed: Burroughs Wellcome.

Section 2. Pseudoephedrine Hydrochloride Syrup Pharmaceutical Products. The following pseudoephedrine hydrochloride syrup pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage: Pseudoephedrine hydrochloride 30 mg/5 ml Syrup Form:

(1) Decofed: National Pharmaceutical Manufacturing Co.;

(2) Novafed: Dow Pharmaceuticals; (Cautionary Note: Contains Alcohol.)

(3) Pseudoephedrine Hydrochloride: Midway Medical Co.;

(4) Sudafed: Burroughs Wellcome.

KENNETH P. CRAWFORD, M.D., Chairperson
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TO: Mrs. Dorothy Barnes, Kentucky Drug Formulary Council, 275 East Main Street, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council
(Proposed Amendment)

902 KAR 1:280. Chloral Hydrate Capsules and Syrup.

RELATES TO: KRS 217.814 to 217.826,
217.990(9)(10)

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: KRS 217.819 directs the Kentucky Drug Formulary Council to prepare a formulary of drugs and pharmaceuticals with their generic or chemical names that are determined by the council to be therapeutically equivalent to specified brand name drugs and pharmaceuticals. This regulation lists Chloral Hydrate pharmaceutical products by their generic and brand names that have been determined by the council to be therapeutically equivalent.

Section 1. Chloral Hydrate Capsule Pharmaceutical Products. The following chloral hydrate capsule pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage:

(1) Chloral Hydrate 500 mg. Capsule Form:

(a) Chloral Hydrate: Barre Drug Company, Columbia Medical Company, *Cooper Drug Company*, Geneva Generics, Kasar Laboratories, Lederle Laboratories, Midway Medical Company, National Pharmaceuticals, Parke Davis & Company, Philips-Roxane Laboratories, Purepac Pharmaceuticals, Richie Pharmacal;

(b) Noctec: E. R. Squibb & Sons;

(c) Somnos: Merck, Sharp & Dohme; and

(d) V-Clor: Vanguard Laboratories.

Section 2. Chloral Hydrate Syrup Pharmaceutical Products. The following chloral hydrate syrup pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage (Cautionary Note: Sugar content not determined.):

(1) Chloral Hydrate Syrup 500 mg/ 5ml Form:

(a) Chloral Hydrate Syrup: Barre Drug Company, *Lederle Laboratories*, Midway Medical Company, National Pharmaceuticals, Richie Pharmacal;

(b) Noctec Syrup: E. R. Squibb & Sons; and

[(c) Somos Syrup: Merck, Sharp & Dohme; and]

[(c) [(d)] V-Clor syrup: Vanguard Laboratories.

KENNETH P. CRAWFORD, M.D., Chairperson
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APPROVED: C. LESLIE DAWSON, Secretary
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SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Mrs. Dorothy Barnes, Kentucky Drug Formulary Council, 275 East Main Street, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council
(Proposed Amendment)

902 KAR 1:290. Ferrous Sulfate Tablet.

RELATES TO: KRS 217.814 to 217.826,
217.990(9)(10)

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: KRS 217.819 directs the Kentucky Drug Formulary Council to prepare a formulary of drugs and pharmaceuticals with their generic or chemical names that are determined by the council to be therapeutically equivalent to specified brand name drugs and pharmaceuticals. This regulation lists Ferrous Sulfate pharmaceutical products by their generic and brand names that have been determined by the council to be therapeutically equivalent.

Section 1. Ferrous Sulfate Tablet Pharmaceutical Products. The following ferrous sulfate tablet pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage: Ferrous Sulfate Tablets 5 gr.:

- (1) Enseals: Eli Lilly and Company;
- (2) Feosol: Smith, Kline and French, Labs.;
- (3) Ferrous Sulfate: Columbia Medical Company, Geneva Generics, Lederle Laboratories, Mylan Pharmaceuticals, Philips-Roxane Labs., Purepac Pharmaceuticals, Richie Pharmacal, Rondex Laboratories, *United Research Laboratories*;
- (4) Film Seals: Parke, Davis and Company;
- (5) Neo-Vadrin: First Texas Pharmaceuticals.

KENNETH P. CRAWFORD, M.D., Chairperson

ADOPTED: October 7, 1976

APPROVED: C.LESLIE DAWSON, Secretary

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SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Mrs. Dorothy Barnes, Kentucky Drug Formulary Council, 275 East Main Street, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council
(Proposed Amendment)

902 KAR 1:300. Dioctyl Sodium Sulfosuccinate Capsule.

RELATES TO: KRS 217.814 to 217.826,
217.990(9)(10)

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: KRS 217.819 directs the Kentucky Drug Formulary Council to prepare a formulary of drugs and pharmaceuticals with their generic or chemical names that are determined by the council to be therapeutically equivalent to specified brand name drugs and pharmaceuticals. This regulation lists Dioctyl Sodium Sulfosuccinate pharmaceutical products by their generic and brand names that have been determined by the council to be therapeutically equivalent.

Section 1. Dioctyl Sodium Sulfosuccinate Capsule

Pharmaceutical Products. The following dioctyl sodium sulfosuccinate capsule pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage:

(1) Dioctyl Sodium Sulfosuccinate 50 mg. Capsule Form:

- (a) Colace: Mead Johnson Labs.;
- (b) Dioctyl Sodium Sulfosuccinate: Philips-Roxane Labs., Inc.;
- (c) D-S-S: Parke, Davis and Company.

(2) Dioctyl Sodium Sulfosuccinate 100 mg. Capsule Form:

- (a) Colace: Mead Johnson Labs., Inc.;
- (b) Comfolax: Searle Laboratories;
- (c) Dioctyl Sodium Sulfosuccinate: *Cooper Drug Company*, Geneva Generics, Kasar Laboratories, Lederle Laboratories, Midway Medical Corp., Philips-Roxane Labs., Purepac Pharmaceutical Co., Richie Pharmacal;
- (d) D-S-S: Parke, Davis and Company;
- (e) Pro-Sof: Vanguard Laboratories;
- (f) Provilax: Reid-Provident Labs., Inc.;
- (g) Regul-Aids: Columbia Medical Company.

(3) Dioctyl Sodium Sulfosuccinate 250 mg. Capsule Form:

- (a) Dioctyl Sodium Sulfosuccinate: *Cooper Drug Company*, Geneva Generics, Kasar Laboratories, Midway Medical Corp., Purepac Pharmaceutical Co.;
- (b) Pro-Sof: Vanguard Laboratories.

Section 2. Dioctyl Sodium Sulfosuccinate Liquid Pharmaceutical Products. The following dioctyl sodium sulfosuccinate liquid pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage: Dioctyl Sodium Sulfosuccinate Liquid 20 mg/5ml:

- (1) Diocto Syrup: National Pharmaceuticals;
- (2) Dioctyl Sodium Sulfosuccinate: *Lederle Laboratories*, Mead Johnson Labs., Inc., Midway Medical Corp., Richie Pharmacal Company;
- (3) Pro-Sof: Vanguard Laboratories;
- (4) Regul-Aid: Columbia Medical Company.

KENNETH P. CRAWFORD, M.D., Chairperson

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DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council
(Proposed Amendment)

902 KAR 1:324. Hyoscyamine and Atropine Sulfates, Hyoscine Hydrobromide, and Phenobarbital Tablets.

RELATES TO: KRS 217.814 to 217.826,
217.990(9)(10)

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: KRS 217.819 directs the Kentucky Drug Formulary Council to prepare a formulary of drugs and pharmaceuticals with their generic or chemical names that are determined by the council to be

therapeutically equivalent to specified brand name drugs and pharmaceuticals. This regulation lists Hyoscyamine Sulfate, Atropine Sulfate, Hyoscine Hydrobromide and Phenobarbital pharmaceutical products by their generic and brand names that have been determined by the council to be therapeutically equivalent.

Section 1. Hyoscyamine Sulfate, Atropine Sulfate, Hyoscine Hydrobromide and Phenobarbital Tablet Pharmaceutical Products. The following Hyoscyamine Sulfate 0.1037 mg., Atropine Sulfate 0.0194 mg., Hyoscine Hydrobromide 0.0065 mg., and Phenobarbital 16.2 mg. tablet pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage: Hyoscyamine Sulfate 0.1037 mg., Atropine Sulfate 0.0194 mg., Hyoscine Hydrobromide 0.0065 mg. and Phenobarbital 16.2 mg. Tablet Form:

- (1) Donnatal: A. H. Robins Company;
- (2) Don-A-Spas: Richie Pharmacal;
- (3) [(2)] Relaxadon: Geneva Generics;
- (4) [(3)] Spalix: Reid-Provident.

Section 2. Hyoscyamine Sulfate, Atropine Sulfate, Hyoscine Hydrobromide and Phenobarbital Elixir Pharmaceutical Products. The following Hyoscyamine Sulfate 0.1037 mg., Atropine Sulfate 0.0194 mg., Hyoscine Hydrobromide 0.0065mg., and Phenobarbital 16.2 mg., elixir pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage: Hyoscyamine Sulfate 0.1037 mg., Atropine Sulfate 0.0194 mg., Hyoscine Hydrobromide 0.0065 mg., and Phenobarbital 16.2 mg. Elixir Form:

- (1) Barophen Elixir: National Pharmaceutical Company;
- (2) Donna-Phenal Elixir: Columbia Medical Company;
- (3) Don-A-Spas Elixir: Richie Pharmacal Company;
- (4) Donnatal Elixir: A. H. Robins Company;
- (5) Midaphen: Midway Medical Company;
- (6) Vanatal: Vanguard Laboratories.

KENNETH P. CRAWFORD, M.D., Chairperson

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TO: Mrs. Dorothy Barnes, Kentucky Drug Formulary
Council, 275 East Main Street, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES

Bureau for Health Services
(Proposed Amendment)

902 KAR 100:040. General provisions for specific licenses.

RELATES TO: KRS 152.690, 152.990 [152.105 to 152.190]

PURSUANT TO: KRS 13.082, 152.690 194.050, 211.090

NECESSITY AND FUNCTION: KRS 152.690 directs that the Secretary of the Department for Human Resources [is empowered by KRS 152.105 to 152.190 to regulate] shall provide by regulation for the licensing of the possession or use of any source of conveying [ionizing or

electronic product] radiation and [to regulate] the transportation, handling and disposal of radioactive waste. The purpose of this regulation is to provide general provisions for the issuance of radioactive material licenses to possess, use, and transfer radioactive material.

Section 1. Applicability. The provisions of this regulation apply to the licensing of all persons who possess, use, or transfer radioactive material within Kentucky.

Section 2. License Requirement. *Except for persons exempt as provided in 902 KAR 100:015 and 902 KAR 100:045*, no person shall manufacture, produce, receive, possess, use, transfer, own, or acquire radioactive material except as authorized in a specific or general license issued pursuant to these regulations [this regulation or as otherwise provided in this regulation]. Authority to transfer possession or control by the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, by product, or special nuclear material, intended for use by the general public may be obtained only from the United States Nuclear Regulatory [Atomic Energy] Commission, Washington, D. C. 20545.

Section 3. Types of Licenses. (1) Licenses for radioactive material are of two (2) types: general and specific.

(2) *Except as otherwise specified in 902 KAR 100:050* general licenses [provided in this regulation] are effective without the filing of specific applications with the department or the issuance of licensing documents to particular persons. *The general license is subject to all other applicable requirements of these regulations and any limitations of the general license.*

(3) *All specific licenses require the submission of an application to the department and the issuance of a licensing document by the department. Such licensees shall be subject to all applicable requirements of these regulations and to such limitations as may be specified in the licensing document* [Specific licenses are issued to named persons upon applications filed pursuant to this regulation.]

Section 4. Filing of Application for Specific Licenses.

(1) Applications for specific licenses shall be filed on a form prescribed by the department.

(2) The department may at any time after the filing of the original application, and before the expiration of the license, require further statements in order to enable the department to determine whether the application should be granted or denied or whether a license should be modified or revoked. Pre-licensing visits may be made to the applicant's facility for the purpose of obtaining additional information furnished in the original application.

(3) Each application shall be signed by the applicant or licensee or a person duly authorized to act for and on his behalf.

(4) An application for a license may include a request for a license authorizing one or more activities *provided that the application specified such additional activities and complies with applicable regulations of the department relating to such licenses.*

(5) In his application, the applicant may incorporate by reference information contained in previous applications, statements, or reports filed with the department, provided such references are clear and specific.

(6) Applications and documents submitted to the department may be made available for public inspection except that the department may withhold, upon request, any document or part thereof from public inspection if disclosure of its contents is not required in the public interest and would adversely affect the interest of a person concerned.

Section 5. General Requirements for the Issuance of Specific Licenses. A license application shall be approved if the department determines that:

(1) The applicant is qualified by reason of training and experience to use the material in question for the purpose requested in accordance with these regulations in such a manner as to protect health and minimize danger to life and property; and

(2) The applicant's proposed equipment, facilities, and procedures are adequate to protect health and minimize danger to life and property; and

(3) The issuance of the license will not be inimical to the health and safety of the public; and

(4) The applicant satisfies any applicable special requirements in *these regulations* [this regulation].

Section 6. Issuance of Specific Licenses. (1) Upon a determination that an application meets the requirements of the Act and the regulations of the department, the department shall issue a specific license authorizing the proposed activity in such form and containing such conditions and limitations as it deems appropriate or necessary.

(2) The department may incorporate in any license at the time of issuance, or thereafter by appropriate rule, regulation, or order, such additional requirements and conditions with respect to the licensee's receipt, possession, use, and transfer of radioactive material subject to this regulation as it deems appropriate or necessary in order to:

(a) Minimize danger to public health and safety or property;

(b) Require such reports and the keeping of such records, and to provide for such inspections of activities under the license as may be appropriate or necessary;

(c) Prevent loss or theft of licensed material.

Section 7. Specific Terms and Conditions of Licenses.

(1) Each license issued pursuant to this regulation shall be subject to all the provisions of the Act, now or hereafter in effect, and to all rules, regulations, and orders of the department.

(2) Neither the license nor any right under the license shall be assigned or otherwise transferred in violation of the provisions of the Act.

(3) Each person licensed by the department pursuant to these regulations shall confine his use and possession of the material(s) licensed to the locations and purposes authorized in the license.

(4) Each specific licensee authorized under these regulations to distribute certain devices to generally licensed persons:

(a) Shall report to the department all transfers of such devices to persons generally licensed under these regulations. Such report shall identify each general licensee by name and address, the type of device transferred, and the quantity and type of radioactive material contained in the device. The report shall be submitted within thirty (30) days after the end of each calendar quarter in which such a device is transferred to generally licensed persons; and

(b) Shall furnish to each general licensee to whom he

transfers such device a copy of the general license contained in these regulations.

Section 8. Expiration of Licenses. Except as provided in Section 9(2) of this regulation, each specific license shall expire at the end of the day, in the month and year stated therein.

Section 9. Renewal of License. (1) Applications for renewal of specific licenses shall be filed in accordance with these regulations.

(2) In any case in which a licensee, not less than thirty (30) days prior to expiration of his existing license, has filed an application in proper form for renewal or for a new license authorizing the same activities, such existing license shall not expire until the application has been finally determined by the department, or the time for seeking judicial review has elapsed.

Section 10. Amendment of Licenses at Request of Licensee. Applications for amendment of a license shall be filed in accordance with these regulations and shall specify the respects in which the licensee desires his license to be amended and the grounds for such amendment.

Section 11. Department Action on Applications to Renew or Amend. In considering an application by a licensee to renew or amend his license, the department shall apply the applicable criteria set forth in these regulations.

Section 12. Inalienability of Licenses. No license issued or granted under these regulations and no right to possess or utilize radioactive material granted by a license issued pursuant to these regulations shall be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person unless the department shall, after securing full information, find that the transfer is in accordance with the provisions of these regulations and gives its consent in writing.

Section 13. Transfer of Material. (1) No licensee shall transfer radioactive material except as authorized pursuant to this regulation.

(2) *Except as otherwise provided in the license and subject to the provisions of subsections (3) and (4) of this section* any licensee may transfer radioactive material subject to the acceptance of the transferee:

(a) To the department;

(b) To the United States Nuclear Regulatory [Atomic Energy] Commission;

(c) To any person exempt from the *requirements for a license* [regulations] as specified in this regulation to the extent permitted under such exemption;

(d) To any person authorized to receive such material under terms of a general license or its equivalent, or a specific license or equivalent licensing document, issued by the department, the United States Nuclear Regulatory [Atomic Energy] Commission, or any agreement state, or to any person otherwise authorized to receive such material by the federal government or any agency thereof, the department, or any agreement state; or

(e) As otherwise authorized by the department in writing.

(3) Before transferring radioactive material to a specific licensee of the department, United States Nuclear Regulatory [Atomic Energy] Commission or an agreement

state or to a general licensee who is required to register with the department, United States *Nuclear Regulatory* [Atomic Energy] Commission or with an agreement state prior to receipt of the radioactive material, the licensee transferring the material shall verify that the transferee's license authorizes the receipt of the type, form and quantity of radioactive material to be transferred.

(4) The following methods for the verification required by this regulation are acceptable:

(a) The transferor may have in his possession, and read, a current copy of the transferee's specific license or registration certificate;

(b) The transferor may have in his possession a written certificate by the transferee that he is authorized by license or registration certificate to receive the type, form, and quantity of radioactive material to be transferred, specifying the license or registration certificate number, issuing agency and expiration date;

(c) For emergency shipments, the transferor may accept oral certification by the transferee that he is authorized by license or registration certificate to receive the type, form and quantity of *radioactive* [byproduct] material to be transferred, specifying the license or registration certificate number, issuing agency, and expiration date; provided, that the oral certification is confirmed in writing within ten (10) days;

(d) The transferor may obtain other sources of information compiled by a reporting service from official records of the department, the United States *Nuclear Regulatory* [Atomic Energy] Commission, or the licensing agency of an agreement state as to the identity of licensees and the scope and expiration dates of licenses and registration; or

(e) When none of the methods of verification described in subsection (4)(a) to (d) of this section are readily available or when a transferor desires to verify that information received by one of such methods is correct or up-to-date, the transferor may obtain and record confirmation from the department, United States *Nuclear Regulatory* [Atomic Energy] Commission, or the licensing agency of an agreement state that the transferee is licensed to receive the radioactive material.

(5) Preparation for shipments and transport of radioactive materials shall be in accordance with the provisions of these regulations.

Section 14. Modification, Revocation, and Termination of Licenses. (1) The terms and conditions of all licenses shall be subject to amendment, revisions, or modifications or the license may be suspended or revoked by reason of amendment to the Act, or by reason of rules, regulations, and orders issued by the department.

(2) Any license may be revoked, suspended, or modified, in whole or in part, for any material false statement in the application or any statement of fact required under provisions of the Act, or because of conditions revealed by such application or statement of fact or any report, record, or inspection, or other means which would warrant the department to refuse to grant a license on an original application, or for violation, or failure to observe any of, the terms and conditions of the Act, or the license, or of any rules, regulation, or order of the department.

(3) Except in cases of willful violation or those in which the public health, interest, or safety requires otherwise, no license shall be modified, suspended, or revoked unless,

prior to the institution of proceedings therefor, facts or conduct which may warrant such action shall have been called to the attention of the licensee in writing and the licensee shall have been accorded an opportunity to demonstrate or achieve compliance with all lawful requirements.

(4) The department may terminate a specific license upon request submitted by the licensee to the department in writing.

Section 15. Retention of Records. (1) *Each person who receives radioactive material pursuant to a license issued pursuant to these regulations shall keep records showing the receipt, transfer, and disposal of such radioactive material.*

(2) (a) *"Records of receipt" of radioactive material which must be maintained pursuant to subsection (1) of this section shall be maintained as long as the licensee retains possession of the radioactive material and for two (2) years following transfer or disposal of the radioactive material.*

(b) *"Records of transfer" of radioactive material shall be maintained by the licensee who transferred the material for five (5) years after such transfer.*

(c) *"Records of disposal" of radioactive material shall be maintained in accordance with 902 KAR 100:020.*

(3) *All other records required by these regulations or by a license condition shall be maintained for the period specified by the applicable regulation or license condition. In the event the retention period is not specified by regulation or license condition, such records shall be permanently maintained unless the department authorizes their disposition upon proper application for their destruction.*

(4) *Records required to be maintained pursuant to these regulations may be the original, a reproduced copy or a microform if duly authenticated by authorized personnel and capable of producing a clear and legible copy after storage for the period specified by department regulations.*

WILLIAM P. McELWAIN, M. D., Commissioner

ADOPTED: October 7, 1976

APPROVED: C. LESLIE DAWSON, Secretary

RECEIVED BY LRC: October 12, 1976 at 10 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Secretary for Human Resources, Capitol Annex, Frankfort, Kentucky 40601.

Proposed Regulations

OFFICE OF THE GOVERNOR

10 KAR 1:010. Defense of employees.

RELATES TO KRS: 12.211

PURSUANT TO KRS: 12.213, 13.082

NECESSITY AND FUNCTION: KRS 12.213 (H.B. 761, Chapter 362, Acts 1976) requires the Governor, with the advice of the Attorney General, to adopt regulations governing the methods of defense of employees or former employees of the Commonwealth.

Section 1. Definitions. When used in this regulation: (1) "Claim" means a claim whether or not a suit has been filed.

(2) "Civil action" means a civil suit filed in a state or federal court.

(3) "Defendant" means an employee or former employee of the Commonwealth who has been sued in a civil action over acts or omissions of a discretionary nature.

(4) "State agency" means any department, administrative body, division or program cabinet acting for the Commonwealth but does not include local units of government such as school districts, counties, sewer districts or other municipalities.

(5) "Acts and omissions liability insurance" means insurance to cover the cost of defending civil actions covered under this act and paying judgments or settlements resulting therefrom.

Section 2. Notice of Claim; Investigation. An employee or former employee against whom a claim is made which may result in a civil action against him on account of an act or omission made in the course of his employment by a state agency should immediately report said claim and the circumstances surrounding the claim to the Attorney General. The Attorney General, if he thinks it warranted, may cause an investigation of the claim to be made by a regular or special investigator of his office.

Section 3. Application for Defense; Response. (1) Any person desiring the Attorney General to provide for his defense under this Act shall make a written request to the Attorney General and shall submit with the request a copy of the summons, complaint and all other papers, documents and exhibits pertaining to the action.

(2) The Attorney General shall make a timely response to the court by filing an answer or motion for the defendant provided the application for defense is received by the Attorney General at least ten (10) days before a pleading is due. The filing of a pleading in the case shall not commit the Attorney General to continue the defense if the Attorney General has not reached a final decision and notified the defendant that his defense will be provided.

(3) Upon receiving an application for defense, the Attorney General, after such investigation and research as he deems necessary, taking into consideration those factors set out in KRS 12.212, shall decide and notify the defendant whether defense will be provided, and if so, by what method set out in Section 4 herein. The Attorney General shall not be responsible for the defense of a defendant unless written acceptance of the defense has been made by the Attorney General.

(4) In every case where the Attorney General has made

a general delegation of his discretionary power to decide when to provide defense to other authority in state government, such authority shall make the decision and the application for defense provided by this section need not be made to the Attorney General, provided that in such cases the authority making the decision shall provide legal counsel for the defense. All settlements made in such cases shall, however, be approved by the Attorney General as provided by Section 6.

Section 4. Methods of Defense. (1) Except where the defendant is covered by insurance as provided in Section 5, defense to a civil action may be provided in any of the following manners:

(a) The Attorney General may assign an assistant attorney general or a special assistant attorney general employed for that purpose to handle the case to conclusion by either settlement or final adjudication.

(b) The Governor or any department with the approval of the Governor may assign a regularly employed attorney under KRS 12.210 or an attorney employed under a personal service contract to handle the case as in paragraph (a) above.

(c) Any state agency may assign its employed counsel to handle the case.

(2) Regardless of the method of defense provided no settlement of litigation being defended under this regulation shall be made without the approval of the Attorney General, except as provided in Section 6 herein.

(3) A defendant who has requested defense under this regulation may elect to provide his defense by counsel employed by the defendant and in such case shall notify the counsel employed by the state of his election in writing.

Section 5. Insurance. (1) Any state agency or class of state agencies may be authorized by the Governor to purchase acts and omissions liability insurance for the protection of its employees and the benefit of the public.

(2) Any state agency which believes it is economically feasible to purchase acts or omissions liability insurance may request the Governor for authority to do so. The agency's request shall be documented with data as to the history of claims, probable cost of the insurance and any reasons it believes insurance is advisable for said agency.

(3) Any policy of acts and omissions liability insurance purchased by a state agency shall provide a maximum coverage of \$50,000 for each claim. Nothing in this regulation shall be deemed to waive the sovereign immunity of the Commonwealth with respect to a claim covered by this regulation or to authorize the payment of a judgment or settlement against a state employee in excess of the limit provided in any acts or omissions liability insurance purchased by a state agency.

(4) KRS 44.055 authorizes state agencies to purchase policies of insurance covering vehicles owned by the state. For this reason "defendant," as defined in Section 1(3), does not include a person being sued for negligence in the operation of a state vehicle.

Section 6. Settlements. (1) Any counsel assigned by a state agency or the Attorney General may recommend to the Attorney General the settlement of a civil action against a defendant under this regulation. If the Attorney General

approves the settlement recommended he shall notify the Secretary of the Department for Finance and Administration by written memorandum and if the Secretary concurs in this recommendation the Secretary shall issue a voucher to the State Treasurer for payment of the settlement. No settlement shall be made or paid without the prior approval of the Attorney General.

(2) Guidelines for settlements. No settlement should be recommended unless the assigned counsel believes:

- (a) The claim is legally valid,
- (b) There is a strong probability of a judgment being rendered against the defendant,
- (c) The settlement is a reasonable compromise in light of the nature of the claim.

(3) Defense counsel shall document the reasons for recommending a settlement in writing to the Attorney General and the documentation shall be a public record open to public inspection.

(4) This section shall not apply to any settlement reached by a defendant or his insurer which results in no cost to the Commonwealth.

Section 7. Cost of Administration. The Attorney General shall be reimbursed for the cost to his office for the administration of KRS 12.211 to 12.215 upon vouchers submitted by the Attorney General and approved by the Secretary of the Department for Finance and Administration.

JULIAN M. CARROLL, Governor

ADOPTED: October 7, 1976

RECEIVED BY LRC: October 7, 1976 at 2:15 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Office of the Governor, Capitol Building, Frankfort, Kentucky 40601.

AGRICULTURAL EXPERIMENT STATION

12 KAR 1:110. Seed not required to be labeled by variety name.

RELATES TO: KRS 250.020 to 250.170

PURSUANT TO: KRS 250.040

NECESSITY AND FUNCTION: To establish the kinds of seed omitted from the requirement for labeling to show the variety name.

Section 1. In accordance with KRS 250.040, the following kinds of seed are omitted from the requirement for labeling to show the variety name and the statement "Variety Unknown:"

- (1) Bermudagrass (*Cynodon dactylon*);
- (2) Bluegrass, Canada (*Poa compressa*);
- (3) Bluegrass, rough (*Poa trivialis*);
- (4) Brome, field (*Bromus arvensis*);
- (5) Buckwheat (*Fagopyrum esculentum*);
- (6) Canarygrass (*Phalaris canariensis*);
- (7) Clover, alsike (*Trifolium hybridum*);
- (8) Fescue, chewings (*Festuca rubra*, var *commutata*);
- (9) Fescue, meadow (*Festuca elatior*);
- (10) Lespedeza, Korean (*Lespedeza stipulacea*);
- (11) Lespedeza, striate (*Lespedeza striata*);
- (12) Lovegrass, sand (*Eragrostis trichodes*);
- (13) Lovegrass, weeping (*Eragrostis curvula*);

- (14) Millet, browntop (*Panicum ramosum*);
- (15) Millet, foxtail (*Setaria italica*);
- (16) Millet, Japanese (*Echinochloa crusgalli*, var *frumentacea*);
- (17) Millet, proso (*Panicum miliaceum*);
- (18) Rape (*Brassica* spp.);
- (a) annual (*B. napus*, var *annua*);
- (b) turnip, annual or bird (*B. campestris*);
- (c) turnip, biennial (*B. campestris*, var *autumnalis*);
- (d) winter (*B. napus*, var *biennis*);
- (19) Redtop (*Agrostis alba*);
- (20) Sweetclover, white (*Melilotus alba*);
- (21) Sweetclover, yellow (*Melilotus officinalis*);
- (22) Vetch, common (*Vicia sativa*);
- (23) Vetch, hairy (*Vicia villosa*).

CHARLES E. BARNHART, Director

ADOPTED: September 10, 1976

RECEIVED BY LRC: September 20, 1976 at 10:30 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Director, Agricultural Experiment Station, Agricultural Science Bldg., North, University of Kentucky, Lexington, Kentucky 40506.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION Board of Hairdressers and Cosmetologists

201 KAR 12:031. Posting of license.

RELATES TO: KRS 317A.050

PURSUANT TO: KRS 13.082, 317A.060

NECESSITY AND FUNCTION: Licenses must be posted to aid the Board members and salon inspectors in conducting their inspections.

Section 1. In the event a license is lost, destroyed or stolen after issuance, a duplicate license shall be issued to the licensee. The licensee must file a statement verifying the loss of the license and each duplicate license shall be indicated "duplicate."

CARROLL ROBERTS, Administrator

ADOPTED: April 5, 1976

APPROVED: RUSSELL McCLURE, Secretary

RECEIVED BY LRC: September 21, 1976 at 11:15 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Carroll Roberts, Administrator, 304 West Liberty, Suite 300, Louisville, Kentucky 40202.

request for the information outlined in Section 18 does not forward same to the board within twenty (20) days after receiving requests, a verified affidavit from the student as to the number of hours received shall be accepted by the board and entered on their records as the appropriate number of hours earned.

Section 20. A training period for students is as follows: eight (8) hours per day, forty (40) hours per week (maximum). A student of cosmetology must have a minimum of 225 days of school attendance under instruction. A student of manicuring must have a minimum of thirty-seven and one-half (37 1/2) days of school attendance under instruction.

Section 21. All students shall be allowed thirty (30) minutes toward the middle of any eight (8) hour day for eating or taking a rest break. Students shall not be given credit for the one-half (1/2) hour break toward meeting the 1800-hour requirement.

Section 22. An informational copy of the statutes and regulations of the Kentucky Board of Hairdressers and Cosmetologists must be provided to each student enrolled in a school of cosmetology. Copies may be obtained from the board's office.

Section 23. Persons completing hours in a school of cosmetology within a period of five (5) years from date of enrollment shall be given credit by the board for hours completed. Any hours received beyond this five (5) year period shall be null, void, and held for naught.

Section 24. No student shall be in attendance in a school of cosmetology more than eight (8) hours in one day and no more than five (5) days in one (1) week.

CARROLL ROBERTS, Administrator

ADOPTED: April 5, 1976

APPROVED: RUSSELL McCLURE, Secretary

APPROVED: WILLIAM P. McELWAIN, Commissioner

RECEIVED BY LRC: September 21, 1976 at 11:15 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Carroll Roberts, Administrator, Board of Hairdressers and Cosmetologists, 304 West Liberty, Suite 300, Louisville, Kentucky 40202.

**DEPARTMENT FOR NATURAL RESOURCES
AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution**

401 KAR 3:080. Emission standards for liquified petroleum gas carburetion systems.

RELATES TO: KRS Chapters 224,234

PURSUANT TO: KRS 13.082, 224.021, 224.033(17), 234.321

NECESSITY AND FUNCTION: KRS 234.321 requires the Department for Natural Resources and Environmental Protection to establish emission standards for liquified petroleum gas carburetion systems. This regulation complies with that requirement.

Section 1. General Provisions. (1) Applicability. This regulation is applicable only to motor vehicles utilizing liquified petroleum gas for fuel which are required to be equipped with carburetion systems approved by the department in order to be eligible for tax exemptions as set forth in KRS 234.321.

(2) Definitions. As used in this regulation, all terms not defined herein shall have the meaning given them in 401 KAR 3:010.

(a) "Exhaust Emissions" means substances emitted to the atmosphere from any opening downstream from the exhaust port of a motor vehicle engine.

(b) "Light duty vehicle" means any motor vehicle either designed primarily for transportation of property and rated at 6,000 pounds gross vehicle weight or less or designed primarily for transportation for persons and having a capacity of twelve (12) persons or less.

(c) "Heavy duty vehicle" means any motor vehicle either designed primarily for transportation of property and rated at more than 6,000 pounds gross vehicle weight or designed primarily for transportation of persons and having a capacity of more than twelve (12) persons.

(d) "Gross vehicle weight" means the manufacturer's gross weight rating.

(3) Vehicle modification to use liquified petroleum gas:

(a) In addition to all other standards or requirements imposed, any modification of a motor vehicle which allows that vehicle to use liquified petroleum gas (LPG) for fuel shall not in its operation and function, or malfunction:

1. Cause any emission into the ambient air of any noxious or toxic matter that would not be emitted in the operation of such motor vehicle or motor vehicle engine operating without such a modification; or

2. Cause any unsafe condition which may endanger the motor vehicle, or its occupants or other persons or property.

(b) In cases where a modification of a vehicle has been made which enables gasoline and/or liquified petroleum gas to be used as fuel, evidence satisfactory to the department must be presented to the department that the modification will not cause increased emissions by the vehicle when that vehicle is being fueled by gasoline.

(c) The reactivity of the exhaust gases must not be increased by any modification to a carburetion system, which modification allows the use of liquified petroleum gas as a fuel.

(4) Application for approval:

(a) An application for approval of any carburetion system which uses liquified petroleum gas may be made to the department by any manufacturer.

(b) The application shall be in writing, signed by an authorized representative of the manufacturer, and shall include the following:

1. Identification and description of the carburetion systems, vehicles and engines with respect to which approval is required.

2. A complete description of all modifications and additions to the engine or vehicle.

3. Emission data on such vehicles and engines tested in accordance with the applicable exhaust emission test procedures.

4. A description of tests performed to ascertain compliance with the general standards, and the result of such test.

5. A statement listing the name and location of the testing facility, its qualifications to perform such tests, and

a certification that such testing facility was at the time the test was performed, approved to conduct such tests by the U.S. Environmental Protection Agency.

6. A statement of recommended maintenance procedures and equipment necessary to assure that the carburetion system, vehicle and engine in operation conform to the requirements of this regulation. A description of the program for training of personnel for such maintenance.

7. An agreement that any modifications made to the system in the field will be properly identified and reported to the department. To meet this requirement, the model number shall be permanently marked on the carburetor. An adhesive label listing the following shall be furnished for installation on the air cleaner:

a. Manufacturer's name and address.
b. Accepted by the Department for Natural Resources and Environmental Protection for use on engine sizes Cubic inch to cubic inch.

c. Spark timing.

d. Idle speed.

e. Mixture adjustment (if used).

8. If, after a review of the data submitted by the manufacturer, the department determines that a carburetion system to use liquified petroleum gas conforms to this regulation, it will issue an approval with respect to such system.

Section 2. Standards for Exhaust Emissions. The applicable exhaust emission standards for liquified petroleum gas carburetion systems are as follows:

(1) Light duty vehicles.

(a) Hydrocarbons emissions shall not exceed 0.41 grams per vehicle mile.

(b) Carbon monoxide emissions shall not exceed 3.4 grams per vehicle mile.

Section 3. Test Procedures for Vehicle and Engine Exhaust Emissions. (1) The department will approve carburetion systems which a manufacturer has successfully tested at a facility which is determined to be qualified for performing such testing by the United States Environmental Protection Agency. All testing procedures shall be conducted in accordance with the 1975 federal test procedures and any amendments thereof as established by the United States Environmental Protection Agency.

(2) At least one (1) vehicle in each engine displacement class for which the exemption is sought must be tested for emission data. Each manufacturer, however, must accumulate data on a minimum of two (2) vehicles for each carburetor model to qualify for approval.

Displacement Classes

Class	Engine Displacement
A	Under 140 Cubic Inches
B	140-200 Cubic Inches
C	200-250 Cubic Inches
D	250-300 Cubic Inches
E	300-375 Cubic Inches
F	Over 375 Cubic Inches

(3) Carburetion systems shall be installed in accordance with manufacturer's specifications and instructions in order

to qualify for the exemption.

ROBERT D. BELL, Secretary

ADOPTED: October 14, 1976

RECEIVED BY LRC: October 15, 1976 at 11:30 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: John T. Smither, Director, Division of Air Pollution,
Department for Natural Resources and Environmental
Protection, U.S. 127, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET Department of Education Bureau of Instruction

704 KAR 20:221. Repeals 704 KAR 20:220.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.070, 156.130,
156.160

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of Education. This regulation provides for phasing out existing regulations regarding qualifications for teachers of vocational education subjects by announcing a date for automatic repeal.

Section 1. Regulations relating to the qualifications for teachers of vocational education subjects and the corresponding certificates as provided in 704 KAR 20:220 are repealed effective June 30, 1977.

JAMES B. GRAHAM,

Superintendent of Public Instruction

ADOPTED: June 16, 1976

RECEIVED BY LRC: September 29, 1976 at 1:30 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Mr. James Melton, Secretary, State Board of Education,
17th Floor, Capital Plaza Tower, Frankfort, Kentucky
40601.

PUBLIC PROTECTION AND REGULATION CABINET Department of Labor Labor Relations Board

803 KAR 3:010. General rules of procedure.

RELATES TO: KRS 345.120

PURSUANT TO: KRS 345.120(7)

NECESSITY AND FUNCTION: The Labor Relations Board is authorized by KRS 345.120(7) to promulgate uniform rules necessary to carry out its duties. The function of this regulation is to establish general rules to be followed by the Board during its administrative functions.

Section 1. Purpose. These rules are hereby adopted to aid the State Labor Relations Board and interested parties in proceeding under the Fire Fighters Collective Bargaining

Act. The board may waive any requirement it deems necessary in the course of its business unless an interested party shows prejudice thereby.

Section 2. Policy. The policy of the state being primarily to encourage, promote and develop fair employment practices, both by employers and employees, nothing in these rules shall be so construed to prevent the State Labor Relations Board from using its best and good faith efforts to adjust any disputes arising under this act.

Section 3. Definitions. Any terms used herein that are defined in the Fire Fighters Collective Bargaining Act shall have the meaning therein set forth.

Section 4. Proceedings Combined. Proceedings under several sections of the act may be combined.

Section 5. Construction. These rules and regulations shall be liberally construed to effect the purpose of the act.

HENRY A. TRIPLETT, Chairman
Labor Relations Board

ADOPTED: September 2, 1976

APPROVED: JAMES R. YOCOM, Commissioner

APPROVED: JAMES E. GRAY, Secretary

RECEIVED BY LRC: September 17, 1976 at 2:30 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Kenneth E. Hollis, General Counsel, Department of
Labor, Capital Plaza Tower, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Labor
Labor Relations Board

803 KAR 3:020. Election and certification of unit representatives.

RELATES TO: KRS 345.060(1)(b), 345.120

PURSUANT TO: KRS 345.120(7)

NECESSITY AND FUNCTION: The Labor Relations Board is authorized by KRS 345.120(7) to promulgate uniform rules necessary to carry out its duties. The function of this regulation is to establish rules for the Board regarding the election and certification of representatives for fire fighting units pursuant to KRS 345.060(1)(b).

Section 1. Scope. This chapter governs the general procedure relating to elections to determine a collective bargaining representative for all employees in a unit appropriate for that purpose. Supervisors employed in fire departments who are not actively engaged in fire fighting, are not considered as firefighters.

Section 2. Petition for Election. (1) Who may file. A petition to determine a collective bargaining representative or an appropriate collective bargaining unit may be filed by an individual, or by a labor organization acting on their behalf, or by the municipal employer or anyone lawfully authorized to act on its behalf.

(2) Form, number of copies. The petition shall be prepared on a form furnished by the commissioner and the original and five (5) copies thereof shall be signed and filed with the board.

(3) Contents. The petition shall include the following:

(a) The name, address and affiliation, if any, of the petitioner, and the name and telephone number of its principal representative.

(b) The name and address of the municipal employer involved, if the municipal employer is not the petitioner, and the name and telephone number of its principal representative.

(c) A description of the claimed appropriate supervisory collective bargaining unit specifying inclusions and exclusions, as well as the approximate number of supervisors in the unit.

(d) The names and addresses of any known labor organization who claim to represent firefighter personnel in the claimed appropriate collective bargaining unit.

(e) A brief statement setting forth the nature of the question that has arisen concerning representation.

(f) Any other relevant fact.

Section 3. Elections. (1) Who shall conduct; extension of time for; method. All elections shall be conducted under the supervision of the commission, which may extend the time within which any election shall be held. All elections shall be by secret ballot.

(2) Observers. Any party may be represented by observers, selected in accordance with such limitations as the board may prescribe.

(3) Challenge of voters. Any observer or board agent conducting the election may challenge, for good cause, the eligibility of any person to vote in the election. The ballots of such challenged person shall be impounded.

(4) Count and tally of ballots. Upon the conclusion of the election, the ballots shall be counted in the presence of and with the assistance of, the parties of their observers, and the board agent conducting the election shall cause to be furnished to the parties a tally of ballots.

(5) Inconclusive elections:

(a) When conducted and procedure. When more than one (1) proposed representative appears on the ballot and the results are inconclusive the board may conduct a run-off election as prescribed in KRS 345.060(3).

(b) Eligibility. The board may in its direction of run-off, in its discretion, maintain the same eligibility date or establish a new eligibility date.

Section 4. Certification of Results of Election. If challenged ballots are insufficient in number to affect the results, and if no run-off election is to be held and no timely objections are filed as provided below, the board shall forthwith issue to the parties a certification of the results of the election.

Section 5. Objection to Election. (1) Filing; form; copies. Within five (5) days after the tally of ballots has been furnished, any party may file with the board objections to the conduct of the election or conduct affecting the results of the election. Such objections shall be in writing and shall contain a brief statement of facts upon which the objections are based. An original and five (5) copies of such objections shall be signed and filed with the board, the original being sworn to.

(2) Service on other parties. The party filing such objections shall at the same time serve a copy upon each of the other parties.

Section 6. Hearing on Challenges or Objections. If challenges, which affect the results of the election, or

objections raise a substantial question which cannot be resolved without a hearing, the board may issue and serve a notice of hearing on said issues:

(1) Hearing procedure. The rules relating to conduct of hearings on election petitions shall govern hearing on challenges or objections.

(2) Board action. After the close of the hearing, the board may proceed either forthwith upon the record, or after, oral argument or the submission of briefs, as it may deem proper, to determine issues with regard to the challenges or objections, as the case may be, either sustaining or overruling the challenges to objections:

(a) If the board directs that challenged ballots be opened and counted, said ballots shall be opened and counted, and the board shall issue a revised tally and shall forthwith issue a certification of election.

(b) If the board should sustain the objections it may direct a new election to be held at such time and under such circumstance and conditions it deems appropriate.

(c) If the board should overrule the objections it shall forthwith issue a certification of the election.

HENRY A. TRIPLETT, Chairman
Kentucky Labor Relations Board

ADOPTED: September 2, 1976

APPROVED: JAMES E. GRAY, Secretary

RECEIVED BY LRC: September 17, 1976 at 2:30 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Kenneth E. Hollis, General Counsel, Department of
Labor, Capital Plaza Tower, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET

Department of Labor

Labor Relations Board

803 KAR 3:030. Unfair labor practice complaints.

RELATES TO: KRS 345.070, 345.120

PURSUANT TO: KRS 345.120(7)

NECESSITY AND FUNCTION: The Labor Relations Board is authorized by KRS 345.120(7) to promulgate uniform rules necessary to carry out its duties. The function of this regulation is to establish general rules for the Board relating to the administrative and adjudicatory handling of unfair labor practice complaints.

Section 1. Who may file a Complaint. A complaint that a person has engaged or is engaging in an unfair labor practice may be submitted by any party in interest. Such complaint shall be in writing upon a form provided by the board, the original being signed and sworn to before any person authorized to administer oaths or acknowledgments. Five (5) additional copies of the complaint shall be filed.

Section 2. Complaint. The complaint shall include:

(1) The full name and address of the person making the complaint; hereinafter referred to as the complainant;

(2) The full name and address of the person against whom the complaint is made; hereinafter referred to as the respondent;

(3) A clear and concise statement of the facts constituting the alleged unfair labor practice or practices, including the time and place of occurrence of particular acts and the names of all persons involved.

Section 3. Service of complaint. On the filing of a complaint, the board shall immediately serve on all parties in interest a copy thereof and a notice of a hearing by registered mail to their last known post office address. The hearing will be held not less than five (5) days after notice is served upon the respective parties.

Section 4. Answer. The person or persons complained of may file an answer before the hearing or at the hearing. The answer shall contain a clear and concise statement of the facts which constitute a defense. The answer shall specifically admit, deny, or explain each allegation of the complaint, unless the person complained of shall be without knowledge, in which case he shall so state. Any allegation in the complaint not specifically denied in the answer, unless it is stated in the answer that the respondent is without knowledge, shall be deemed to be admitted as true.

Section 5. Filing and Service of Answer. The original and five (5) copies of the answer shall be signed and filed with the commission, the original being sworn to. The respondent shall serve a copy upon each of the other parties.

Section 6. Amendment of Complaint and Answer. Any complaint or answer may be amended at any time prior to the issuance of a final order by the board.

Section 7. Notice of Hearing. Notice of the time and place of a hearing shall be given to all parties. The hearing will be held in the office of the Department of Labor, Louisville, Kentucky.

Section 8. Hearing Procedure. A hearing will be held at specified times in which the claimants shall complete proof as far as possible. Upon request of either party, extra time to complete proof will be granted. Hearings will be conducted in a manner properly suited to ascertain the substantial rights of the parties and to determine the outcome fairly and expeditiously.

Section 9. Postponement of Hearing. Postponements, ordinarily will not be allowed, except in case of an extreme emergency or in unusual circumstances. No postponements in excess of twenty (20) days shall be allowed.

Section 10. Examination of Witnesses. Witnesses shall be examined orally under oath. Opposing parties shall have the right to cross-examine any witness whose testimony is introduced by an adverse party.

Section 11. Stipulation of Fact. In any such proceeding, stipulations of fact may be introduced into evidence with respect to any issue.

Section 12. Exhibits. In the absence of objection by another party, exhibits shall be entered as evidence and marked with an appropriate designation.

Section 13. Rules of Evidence. Hearings before the board shall not be governed by the rules of evidence prevailing in the courts of the Commonwealth of Kentucky. However, due regard will be had for generally accepted rules of administrative agency hearings in the Commonwealth of Kentucky.

Section 14. Standards of Conduct. All persons appearing in any proceeding shall conform to the standards of ethical conduct. Contemptuous conduct at a hearing will

not be tolerated and will be considered as grounds for exclusion.

Section 15. Computation of Time. In computing any period of time prescribed or allowed in these rules, the day from which the designated period begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or federal or state holiday, in which event the period runs until the end of the next day which is not one of the above mentioned. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays, and federal or state holidays shall not be counted.

Section 16 Decisions of the Board. After the close of a hearing, the board shall make and file findings of fact and an order which shall be signed by a board member and dated. The order, which shall state the determination as to the rights of the parties, shall either dismiss or sustain the complaint in whole or in part; or require the respondent to cease and desist from prohibited practices and take such affirmative action as will effect the policies and intent of KRS 345.010 to 345.130.

Section 17. Review of Findings. (1) Right to file, time. Within twenty(20) days from the date that a copy of the findings of fact, conclusions of law and order of the single member or examiner was mailed to the last known address of the parties in interest, any party in interest, who is dissatisfied with such findings of fact, conclusions of law and order, may file a written petition with the board, and at the same time cause copies thereof to be served upon the other parties, to review such findings of fact, conclusions of law or order. If the board is satisfied that a party in interest has been prejudiced because of exceptional delay in the receipt of a copy of any findings of fact, conclusion of law or order, it may extend time another twenty (20) days for filing the petition for review.

(2) Petition for review. This shall briefly state the grounds of dissatisfaction with the findings of fact, conclusions of law and order, and such review may be requested on the following grounds:

(a) That any finding of material fact is clearly erroneous as established by the clear and satisfactory preponderance of the evidence and prejudicially affects the right of the petitioner designating all relevant portions of the record.

(b) That a substantial question of law or administrative policy is raised by any necessary legal conclusions in such order.

(c) That the conduct of the hearing or the preparation of the findings, conclusion of law or order involved a prejudicial procedural error, specifying in detail the nature thereof and designated portions of the record, if appropriate.

HENRY A. TRIPLETT, Chairman
Kentucky Labor Relations Board

ADOPTED: September 2, 1976

APPROVED: JAMES E. GRAY, Secretary

RECEIVED BY LRC: September 17, 1976 at 2:30 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Kenneth E. Hollis, General Counsel, Department of Labor, Capital Plaza Tower, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Labor
Labor Relations Board

803 KAR 3:040. Deadlocked negotiations petition.

RELATES TO: KRS 345.080, 345.120

PURSUANT TO: KRS 345.120(7)

NECESSITY AND FUNCTION: The Labor Relations Board is authorized by KRS 345.120(7) to promulgate uniform rules necessary to carry out its duties. The function of this regulation is to establish rules for the Board relating to their investigatory, administrative and adjudicatory handling of fact findings as to whether fire-fighters or their representatives and their employers are deadlocked in negotiations.

Section 1. The petition may be filed by any party to the controversy, and shall be on a form furnished by the board, the original being notarized. Five (5) additional copies shall be filed with the board. The party filing the petition, shall, at the same time, cause a copy of said petition to be served on two (2) other parties or its representative, by registered mail.

Section 2. Contents. The petition shall include the following:

(1) The name, address and affiliation of the labor organization involved, and its principal representative.

(2) The name, address, and principal representative of the municipal employer involved.

(3) A description of the certified or recognized collective bargaining unit involved, as well as the approximate number of employees in such unit.

(4) A statement setting forth the basis of the petition, either that after a reasonable period of negotiation the parties are deadlocked; or that the party other than the petitioner has failed or refused to meet and negotiate in good faith at reasonable times in a bona fide effort to arrive at a settlement.

(5) A statement to the effect that, within the knowledge of the petitioner, said deadlock or failure or refusal to meet and negotiate in good faith in a bona fide effort to arrive at a settlement, does not involve discipline or discharge cases under civil service provisions of a state or local ordinance.

(6) A clear and concise statement of facts constituting said alleged deadlock, or said failure or refusal to meet and negotiate in good faith.

(7) A statement as to whether or not the municipal employer involved has established fact-finding procedures, (if so, the petitioner must attach a copy of such fact finding procedures).

(8) Any other relevant facts.

Section 3. Withdrawal of Board. A petition may be withdrawn only with the consent of the board under such conditions as the board may establish to effectuate the policies of the law.

Section 4. Board Investigation. (1) Scope. After a petition has been filed, the board shall make an investigation to determine whether or not the parties are deadlocked after a reasonable period of negotiation; of whether or not either party failed or refused to meet and negotiate in good faith at reasonable times in a bona fide effort to arrive at a settlement.

(2) Nature. In such investigation the board may assign a board agent to conduct an informal investigation to assist the board in making its determination; or the board may conduct a formal hearing for that purpose; or it may utilize both procedures.

Section 5. Consolidation of Proceedings. Whenever the board deems it necessary the board may consolidate fact finding proceedings.

Section 6. Notice of Hearing. (1) When issued, contents. If it should appear to the board that a hearing is warranted, the board shall issue and serve, upon each party, a notice of hearing at a place feasible in the jurisdiction of the employer involved, on a date and at such time therein fixed.

(2) Amendment or withdrawal. Any such notice of hearing may be amended or withdrawn at any time before the close of the hearing by the board or board agent conducting the hearing.

Section 7. (1) Scope and nature. The board hearing in fact finding cases shall be limited to pertinent matters necessary to establish the facts to determine whether, after a reasonable period of negotiation, the parties are deadlocked; or whether the municipal employer or labor organization has failed or refused to meet and negotiate in good faith at reasonable times in a bona fide effort to arrive at a settlement.

(2) Who shall conduct. The hearing may be conducted by the full board, or any member or members thereof, or any member of its staff or any individual designated by the board, all acting on behalf of the board. At any time, a hearing officer may be substituted for the hearing officer previously presiding.

Section 8. Certification of results of investigation. (1) When issues. After consideration of either the report of the Board agents conducting the informal investigation, or the record adduced in the hearing, or both, the board shall issue a certification of the results of said investigation with respect to the question as to whether or not a fact finding should be initiated.

(2) Contents. Said certification shall contain findings of fact and conclusions with regard to the investigation, whether initiating fact finding or dismissing the petition, or such other action, consistent with the intent of the law.

(3) Appointment of fact finders. If the certification requires that fact findings be initiated and that the Board should appoint the fact finders, the selection of fact finders shall be made from a panel established by the board.

(4) Service on the parties, record. A copy of the board's certification shall be immediately served upon the parties, and, if a fact finder is designated, upon the fact finders selected. The board shall also therewith submit to the fact finders a copy of any written informal investigation report, and a copy of the record before the board in the matter.

Section 9. Hearing Before The Fact Finders. (1) Notice of Hearing. Following the receipt of notification of his appointment the fact finders shall issue and serve, upon each of the parties, a notice of hearing at a place feasible in the jurisdiction of the municipality involved at a date and at such time as therein fixed.

(2) Amendment or withdrawal. Any such notice of hearing may be amended or withdrawn at any time before the close of the hearing by the fact finders.

(3) Scope and nature of hearing. The hearing shall be public and concern pertinent matters necessary for the fact finders to determine the facts in the dispute and which, in the opinion of the fact finders assist him in reaching his recommendation for the solution of the dispute.

(4) Rescheduling hearing. Upon its own motion, or upon proper cause shown by any of the parties, the fact finders may, prior to the opening of the hearing reschedule the date of such hearing.

(5) Transcripts. Unless waived by the parties and consented to by the fact finders, hearings shall be stenographically reported and transcribed. Such transcripts shall be the sole official transcript. Costs involved for the original of such transcript shall be borne equally by the parties. Copies of the transcript shall be available to the parties and to the public at rates set by the board.

Section 10. Fact Finding Report. (1) Issuance. After the close of the hearing the fact finders shall prepare and make a fact finding report.

(2) Contents. Such report shall contain:

(a) A statement of findings of fact and conclusions, upon all material issues presented on the record;

(b) Recommendations for the solution of the dispute; and

(c) A memorandum stating the reasons and basis for such findings, conclusions and recommended solutions.

(3) Service. Upon the completion of his report the fact finders shall cause copies of same to be served on the parties as well as the board, and the Commissioner of the Department of Labor.

Section 11. Compensation of Fact Finders. The fact finding proceeding shall be entitled to a per diem compensation for days spent in hearing in a sum not to exceed fifty dollars (\$50) per day and for days spent in preparation and issuance of his report in a sum not to exceed fifty dollars (\$50) per day. The fact finders shall also be compensated for ordinary expenses incurred in the proceedings.

HENRY A. TRIPLETT, Chairman
Labor Relations Board

ADOPTED: September 2, 1976

APPROVED: JAMES R. YOCOM, Commissioner

APPROVED: JAMES E. GRAY, Secretary

RECEIVED BY LRC: September 17, 1976 at 2:30 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Kenneth E. Hollis, General Counsel, Department of Labor, Capital Plaza Tower, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET Department of Labor

**803 KAR 5:010. Access to public records of
Department of Labor.**

RELATES TO: KRS 61.870 to 61.884

PURSUANT TO: KRS 13.082, 61.876

NECESSITY AND FUNCTION: The Department of Labor is authorized by KRS 61.876 to promulgate uniform rules governing public access to public records maintained by the Department of Labor. This regulation establishes the general rules to be followed by the Department of Labor in

affording public access to their records and by persons applying to inspect such records.

Section 1. The official custodian of the records of the Kentucky Department of Labor shall generally exclude from public inspection, except by an order of court as provided in this section:

(1) Public records containing information of a personal nature where public disclosure would constitute a clearly unwarranted invasion of personal privacy. Documents pertaining to claims processed by the Department of Labor under the Workmen's Compensation laws of the Commonwealth of Kentucky, Chapter 342, of the Kentucky Revised Statutes, which contain medical history, personal history or personal statements made by the claimant or any other affiant which bear a reasonable relationship to a Workmen's Compensation claim are excluded from public inspection, pursuant to KRS 61.878(1)(a).

(2) Commercial trade secrets which have been obtained by the personnel within the Kentucky Occupational Safety and Health Program, of the Kentucky Department of Labor, are prohibited from public inspection, pursuant to KRS 338.171 and 61.878(1)(b).

(3) Public records pertaining to the prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within, or expanding within the Commonwealth. (Provided, however, that this exemption shall not include applications filed with state administrative agencies for permits or licenses necessary to do business or to expand business operations within the state, except as provided in subsection (2), pursuant to KRS 61.878(1)(c).)

(4) The contents of real estate appraisals, engineering or feasibility estimates and evaluations made by or for an agency relative to the acquisition of real property, until such time as all of the property has been acquired, pursuant to KRS 61.878(1)(d).

(5) Test questions, scoring keys and other examination data used to administer a licensing examination, or an examination for employment before the examination is given or if it is to be given again, pursuant to KRS 61.878(1)(e).

(6) The Kentucky Occupational Safety and Health Program is a law enforcement agency pursuant to KRS Chapter 338. The Kentucky Department of Labor, Division of Labor Standards, is a law enforcement agency pursuant to KRS Chapter 337. Pursuant to KRS 61.878(1)(f), papers, documents and legal memoranda relating to the adjudication of cases involving the Kentucky Occupational Safety and Health Program or the Department of Labor, Division of Labor Standards, in their law enforcement role, shall be excluded from public inspection until such adjudication has ended, if the disclosures of this information would harm the Kentucky Occupational Safety and Health Program or Department of Labor, Division of Labor Standards, by revealing the identity of informants not otherwise known or by premature release of information to be used in a prospective law enforcement action. This exemption does not apply to the officers and officials of the business entity named in the complaint. The Kentucky Occupational Safety and Health Program shall not disclose for public inspection information which relates to evaluation of whether a violation of a regulation, code, or standard caused or contributed to an accident and/or judgments as to whether a regulation, code, or standard

adequately covers the cause of an accident.

(7) Preliminary drafts, notes, correspondence between state administrative agencies and private individuals, other than correspondence intended to give notice of final action by the Department of Labor pursuant to KRS 61.878(1)(g).

(8) Preliminary drafts, notes or correspondence between the Kentucky Occupational Safety and Health Program and a specific employer which contain information relating to a request for assistance in complying with the Occupational Safety and Health requirement which has been made by the specific employer to the Kentucky Occupational Safety and Health Program shall be excluded from public inspection, pursuant to KRS 61.878(1)(h).

(9) Preliminary drafts, notes, or correspondence held by the Kentucky Department of Labor, Division of Labor Standards, which relates to mediation and conciliation provided by the Department of Labor, Division of Labor Standards, are excluded from public inspection pursuant to KRS 61.878(1)(h).

(10) Preliminary recommendations and memoranda in which opinions are expressed or policies formulated or recommended. Preliminary recommendations or memoranda which express an opinion rendered by the Kentucky Occupational Safety and Health Program as to information relating to a request for assistance in complying with the Occupational Safety and Health requirement which has been made by the specific employer to the Kentucky Occupational Safety and Health Program shall be excluded from public inspection, pursuant to KRS 61.878(1)(h).

(11) All public records or information, the disclosure of which is prohibited by federal law or regulation, pursuant to KRS 61.878(1)(i).

(12) Public records or information, the disclosure of which, is prohibited or restricted or otherwise made confidential by the statutes of this Commonwealth, pursuant to KRS 61.878(1)(j).

HENRY A. TRIPLETT, Chairman
Labor Relations Board

ADOPTED: September 2, 1976

APPROVED: JAMES R. YOCOM, Commissioner

APPROVED: JAMES E. GRAY, Secretary

RECEIVED BY LRC: September 17, 1976 at 2:30 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Kenneth E. Hollis, General Counsel, Department of Labor, Capital Plaza Tower, Frankfort, Kentucky 40601.

eff-12-1-76

PUBLIC PROTECTION AND REGULATION CABINET
Department of Alcoholic Beverage Control

804 KAR 4:015. Interlocking interest between licensees prohibited.

RELATES TO: KRS 243.030, 243.040

PURSUANT TO: KRS 13.082, 241.060

NECESSITY AND FUNCTION: The control of alcoholic beverages in the Commonwealth of Kentucky, as codified in Chapters 241-244 of the Kentucky Revised Statutes, has been established by the Kentucky legislature as a "three tiered" system. The three tiers of this system are

designated as producers, wholesalers, and retailers. Each of these three levels operate separately and apart from each other for the purpose of control. In order for this control to be effectively administered by this board, it is necessary to prevent any type of interlocking interest by and between the three separate levels. The purpose of this regulation is to clarify the interlocking interests which will be prohibited by this board.

Section 1. Definitions. As used in this regulation:

- (1) "Manufacturers" include distillers, rectifiers, blenders, vintners, and brewers.
- (2) "Wholesalers" include wholesalers of distilled spirits and distributors of malt beverages.

Section 2. All interlocking interests between manufacturers, wholesalers, and retailers are hereby prohibited.

Section 3. No manufacturer shall have any financial interest, directly or indirectly, by stock ownership, or through interlocking directors in a corporation, or otherwise, in the establishment, maintenance, or operation in the business of any wholesaler.

Section 4. No manufacturer or wholesaler shall have any financial interest, directly or indirectly, by stock ownership, or through interlocking directors in a corporation, or otherwise, in the establishment, maintenance, or operation in the business of any retailer; nor shall any manufacturer or wholesaler or any stockholder thereof acquire, by ownership, leasehold, mortgage, or otherwise, directly or indirectly, any interest in the premises of a retailer.

Section 5. The malt beverage administrator or distilled spirits administrator may examine into the ownership and management of applicants or existing licensees to determine the presence of any interlocking interest herein prohibited.

Section 6. This regulation shall not apply to any licenses issued prior to the effective date of this regulation.

JAMES G. AMATO, Chairman

ADOPTED: September 15, 1976

APPROVED: JAMES E. GRAY, Secretary

RECEIVED BY LRC: September 21, 1976 at 10:45 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Alcoholic Beverage Control Board, 8th Floor, Capital
Plaza Tower, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET Kentucky Harness Racing Commission

811 KAR 1:032. Eligibility standards; enforcement.

RELATES TO: KRS 230.770

PURSUANT TO: KRS 230.770(5), (6)

NECESSITY AND FUNCTION: To regulate the eligibility of horses participating in races for which a portion of the purse is provided by the Kentucky Standardbred Development Fund. The function of this regulation is to establish eligibility standards and administrative practices to enforce such standards.

Section 1. The owner or lessee of any standardbred stallion desiring to use him for breeding purposes and to have him qualify under the Kentucky Standardbred Development Fund must register said stallion by November 15 with the Kentucky Harness Racing Commission. The registration shall be on forms provided by the commission. Stallion eligibility only:

(1) Foals shall be sired by standardbred stallions standing the entire breeding season within the Commonwealth of Kentucky and registered as such with the Kentucky Harness Racing Commission, by November 15 preceding the breeding season.

(2) A virgin standardbred stallion entering the stud for the first time may be registered prior to his first breeding and must stand in the Commonwealth of Kentucky the remainder of the breeding season.

Section 2. Stallions remaining in the state for more than one (1) breeding season need not be registered annually, but a standard renewal form must be filed annually by November 15 preceding the breeding season on forms provided by the commission. The annual registration fee for stallions to the Kentucky Standardbred Development Fund will be ten (10) percent of the advertised service fee with a minimum of \$100.

Section 3. Owners of standardbred stallions registered with the commission shall submit by October 1 a report of mares bred during the preceding twelve (12) months.

Section 4. If the commission finds an outstanding registration to be incorrect, such registration may be cancelled and notice thereof shall be sent to the owner of the horse.

Section 5. Upon failure of an owner or lessee of a registered stallion to furnish the commission requested information relative to the registration of a horse, the commission may suspend or cancel the registration.

Section 6. If the commission finds that an application for registration or transfer contains false or misleading information, the commission may summon the person who executed said application and any other person who has knowledge thereof. Failure to respond to such summons may cause the commission to suspend or cancel the registration of horses owned by such person. After a hearing, the commission may suspend, cancel, or bar from further registration, horses owned by the person who executed the false or misleading information.

Section 7. In order that foals of 1974, 1975 are to be eligible to race in the Kentucky Standardbred Development

Fund races in 1977, the owner or lessee must register with the commission stallions that stood in Kentucky for the entire season of 1973 and 1974 together with all the names of the mares bred and the date of service. These forms will be provided by the commission.

Section 8. Any owner or lessee of a stallion eligible for the Kentucky Standardbred Development Fund shall designate a resident of Kentucky as an authorized agent who shall be responsible for the registrations and records of the farm and for complying with the requirements of the Kentucky Standardbred Development Fund on behalf of the owner or lessee.

Section 9. The authorized agent application is provided by the Kentucky Harness Racing Commission and must be filed together with the stallion registration before November 15.

CARL LARSEN, Deputy Commissioner

ADOPTED: October 13, 1976

APPROVED:

JAMES E. GRAY, Secretary

RECEIVED BY LRC: October 14, 1976 at 3:35 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Joan Rudnick, Executive Secretary, Kentucky Harness Racing Commission, 369 Waller Avenue, Lexington, Kentucky 40504.

PUBLIC PROTECTION AND REGULATION CABINET Kentucky Harness Racing Commission

811 KAR 1:200. Administration of purses and payments.

RELATES TO: KRS 230.770

PURSUANT TO: KRS 230.770(5), (6)

NECESSITY AND FUNCTION: To regulate races and purses and payments in races for which a portion of the purse is provided by the Kentucky Standardbred Development Fund. The function of this regulation is to establish mandatory criteria for these races and the administration of purses and payments in such races.

Section 1. Races in which any part of the purse is provided by the Kentucky Standardbred Development Fund shall be subject to the rules and regulations of the Kentucky Harness Racing Commission.

Section 2. Each participating foal must have been sired by a stallion registered with the Kentucky Harness Racing Commission, and eligible to the Kentucky Standardbred Development Fund.

Section 3. Each race shall be a one (1) mile dash.

Section 4. Each association has the right to split the event if more than twelve (12) declare to start. In the case of a split in the event the association conducting same may divide the race by adopting one of the methods of elimination racing then current in the Kentucky Harness Racing Commission rules and regulations.

Section 5. Gait must be specified by the first two (2) year old payment. Transfer may be made at the time of

declaration but sustaining payments remain in the respective funds.

Section 6. All races will be raced in separate colt-gelding and filly divisions.

Section 7. All starting fees will be added to the purse and will be paid to the track conducting the event.

Section 8. The purse will be distributed on following percentage basis:

- (1) 50-25-12-8-5: 5 starters or more;
- (2) 50-25-15-10: 4 starters;
- (3) 60-30-10: 3 starters;
- (4) 65-35: 2 starters.

Section 9. Should circumstances prevent the racing of any event, monies will be prorated among horses eligible for the uncontested event at the time of declaring off. In the event the race is drawn, the monies will be equally divided among the horses entered to start. This will include stake payments, starting fees and purses provided by the Kentucky Standardbred Development Fund.

Section 10. Starters shall declare in at each track at the time specified by the association conducting the event.

Section 11. All starters must have at least one (1) satisfactory performance line which is charted and will show on the printed program. The four (4) tracks in Kentucky are to submit their qualifying standards for the stakes program. These will be added to this section as soon as they are received.

Section 12. After payment of the nomination fee, foals shall remain eligible for events each year by making the required sustaining and starting payments for that year.

Section 13. The Kentucky Standardbred Development Fund will be divided each year in accordance with the ratio established by law.

Section 14. Each association will provide a trophy for each event. In the case of elimination races each elimination shall receive a trophy.

Section 15. Starting payments shall be made to the association conducting the meeting. All other payments shall be made to the Kentucky Standardbred Development Fund.

Section 16. \$15,000 added each stake; estimated:

2-Year Olds Racing in 1977

PAYMENTS

March 15th	.....	\$40
May 15th	.....	\$100
Starting Fee (for each track)	.....	\$100
March 15th payment makes entry eligible as a 3-year old.		

3-Year Olds Racing in 1977

PAYMENTS

February 15th	.....	\$40
March 15th	.....	\$100
Starting Fee (for each track)	.....	\$100

Section 17. Beginning 1977 all yearlings will be nominated on May 15 and fees will be ten dollars (\$10) each. Fees are payable to the Kentucky Standardbred Development Fund.

CARL LARSEN, Deputy Commissioner

ADOPTED: October 13, 1976

APPROVED: JAMES E. GRAY, Secretary

RECEIVED BY LRC: October 14, 1976 at 3:35 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Joan Rudnick, Executive Secretary, Kentucky Harness Racing Commission, 369 Waller Avenue, Lexington, Kentucky 40504.

DEPARTMENT FOR HUMAN RESOURCES Kentucky Drug Formulary Council

902 KAR 1:326. Glutethimide Tablet.

RELATES TO: KRS 217.814 to 217.826, 217.990(9)(10)

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: KRS 217.819 directs the Kentucky Drug Formulary Council to prepare a formulary of drugs and pharmaceuticals with their generic or chemical names that are determined by the council to be therapeutically equivalent to specified brand name drugs and pharmaceuticals. This regulation lists Glutethimide pharmaceutical products by their generic and brand names that have been determined by the council to be therapeutically equivalent.

Section 1. Glutethimide Tablet Pharmaceutical Products. The following glutethimide tablet pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage: Glutethimide 500 mg. Tablet Form:

(1) Doriden: USV Pharmaceuticals; and

(2) Glutethimide: Geneva Generics, Midway Medical Company.

KENNETH P. CRAWFORD, M.D., Chairperson

ADOPTED: October 7, 1976

APPROVED: C. LESLIE DAWSON, Secretary

RECEIVED BY LRC: October 12, 1976 at 10 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Mrs. Dorothy Barnes, Kentucky Drug Formulary Council, 275 East Main Street, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES Kentucky Drug Formulary Council

902 KAR 1:328. Chlordiazepoxide Hydrochloride Capsule.

RELATES TO: KRS 217.814 to 217.826, 217.990(9)(10)

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: KRS 217.819 directs the Kentucky Drug Formulary Council to prepare a formulary of drugs and pharmaceuticals with their generic

or chemical names that are determined by the council to be therapeutically equivalent to specified brand name drugs and pharmaceuticals. This regulation lists Chlordiazepoxide Hydrochloride pharmaceutical products by their generic and brand names that have been determined by the council to be therapeutically equivalent.

Section 1. Chlordiazepoxide Hydrochloride Capsule Pharmaceutical Products. The following chlordiazepoxide hydrochloride capsule pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage:

(1) Chlordiazepoxide Hydrochloride 5 mg. Capsule Form:

(a) Chlordiazepoxide Hydrochloride: Geneva Generics, Philips-Roxane Labs.; and

(b) Librium: Roche Laboratories.

(2) Chlordiazepoxide Hydrochloride 10 mg. Capsule Form:

(a) Chlordiazepoxide Hydrochloride: Geneva Generics, Philips-Roxane Labs.; and

(b) Librium: Roche Laboratories.

(3) Chlordiazepoxide Hydrochloride 25 mg. Capsule Form:

(a) Chlordiazepoxide Hydrochloride: Geneva Generics, Philips-Roxane Labs.; and

(b) Librium: Roche Laboratories.

KENNETH P. CRAWFORD, M.D., Chairperson

ADOPTED: October 7, 1976

APPROVED: C. LESLIE DAWSON, Secretary

RECEIVED BY LRC: October 12, 1976 at 10 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Mrs. Dorothy Barnes, Kentucky Drug Formulary Council, 275 East Main Street, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES Bureau for Social Insurance

904 KAR 2:060. Delegation of power for oaths and affirmations.

RELATES TO: KRS 205.170

PURSUANT TO: KRS 13.082, 194.050

NECESSITY AND FUNCTION: The Department for Human Resources has responsibility to administer a money payment program under title IV-A of the Social Security Act and to provide supplemental payments to aged, blind or disabled person. In the administration of the title IV-A and state supplementation programs, staff of the department is required by various federal law and regulations and state law to obtain information from applicants and recipients of the programs under oath or affirmation. KRS 205.170 empowers the Secretary for Human Resources or his duly authorized representative to administer oaths and affirmations in the administration of the programs. This regulation sets forth the designation by the secretary of certain employees of the department to administer oaths and affirmations to applicants and recipients of money grants in limited situations.

Section 1. Specific Worker Designation: District program managers, assistant program managers and income maintenance supervisors of the Bureau for Social Insurance

in the performance of their duties in the various counties of the Commonwealth are designated as duly authorized representatives of the Secretary of the Department for Human Resources to administer oaths and affirmations to recipients for the purpose of obtaining their sworn statement regarding a claim that a check issued pursuant to the money payments programs of the department has been lost, misplaced or stolen.

GAIL S. HUECKER, Commissioner

ADOPTED: October 7, 1976

APPROVED: C. LESLIE DAWSON, Secretary

RECEIVED BY LRC: October 12, 1976 at 10 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Secretary for Human Resources, Capitol Annex, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES Bureau for Social Services

905 KAR 1:015. Supervised placement revocation procedures.

RELATES TO: KRS 208.510

PURSUANT TO: KRS 13.082, 194.050

NECESSITY AND FUNCTION: This regulation is required to establish procedures for administrative hearings to determine if a child on supervised placement from a residential treatment facility should be returned to a residential treatment facility. The purpose of the regulation is to establish the administrative procedure as provided in KRS 208.510.

Section 1. Definitions: (1) "Regional program manager" means a regional program manager of the Bureau for Social Services or other person designated by the commissioner to act in lieu of the regional program manager.

(2) "Commissioner" means the Commissioner of the Bureau for Social Services, Department for Human Resources.

(3) "Board" means the Placement Violation Review Board.

(4) "Chairperson" means the chairperson of the Placement Violation Review Board.

(5) "Child" means the child who is alleged to have violated the conditions of placement and for whom request has been made for his return to a residential treatment facility.

(6) "Department" means the Department for Human Resources.

Section 2. Preliminary Probable Cause Hearing. (1) If the regional program manager determines in a preliminary probable cause hearing that there is probable cause to believe that a child committed to the department and placed on supervised placement from a residential treatment facility has violated the terms and conditions of his supervised placement and that such violation constitutes good cause for the immediate return of the child to a residential treatment facility, the regional program manager may request that the child be detained by a peace officer or a Bureau for Social Services representative, if appropriate, and placed in a residential treatment facility pending a hearing before the Placement Violation Review Board. Any

party to a preliminary probable cause hearing may present witnesses and cross-examine adverse witnesses. Cross-examination may be waived if the regional program manager finds good cause.

(2) The criteria for determining if a preliminary probable cause hearing should be held and if the child should be immediately placed in a residential treatment facility pending a hearing before the Placement Violation Review Board may include, but shall not be limited to, the following:

(a) The child has absconded from his supervised placement;

(b) The child's remaining in the community would constitute a real danger to himself or others.

(3) An effort shall be made to give the child and his parent or guardian actual written notice of the time and place of the preliminary hearing. Such notice may be made by personal delivery of the notice by a representative of the department to the child and his parent or guardian. The notice shall include specific conditions of supervised placement alleged to have been violated and shall inform the child that he may be present and his parent or guardian may be present at the preliminary hearing and may be represented by counsel.

(4) If, after a diligent effort, a representative of the department is unable to notify the child and his parent or guardian, the hearing may nevertheless be held.

(5) The preliminary probable cause hearing may be held as soon as practicable after the delivery of the notice, or any time after certification by the regional program manager that such notice is impracticable.

(6) Upon completion of the preliminary probable cause hearing, the regional program manager shall make known his or her decision in writing to the child. If probable cause is established, the notification shall include a written statement as to the facts relied upon.

(7) The absence of a preliminary probable cause hearing does not preclude a hearing before the Placement Violation Review Board.

Section 3. Placement Violation Review Board. There shall be appointed by the Commissioner of the Bureau for Social Services, Department for Human Resources, a three (3) member board which shall be known as the Placement Violation Review Board. Members of the Placement Violation Review Board shall be appointed from employees of the Bureau for Social Services without direct line authority. One (1) member shall be designated by the commissioner to serve as chairperson of the board. The Placement Violation Review Board shall serve at the pleasure of the commissioner.

Section 4. Duties of the Placement Violation Review Board. The Placement Violation Review Board shall hear cases involving children who have been placed on supervised placement from a residential treatment facility, and request is made for such children to be returned to a residential treatment facility as a result of alleged violation of the conditions of supervised placement. Such requests shall be made by the regional program manager of the region where the child is placed.

Section 5. Hearing Notice. The hearing shall be held at a time and place convenient to the parties to be determined by the chairperson of the Placement Violation Review Board. The child and his parents shall be given written notice of the time and place of the hearing. Notice shall be

by certified mail to the child and his parent or guardian at their last known address. The notice shall include specific conditions of supervised placement alleged to have been violated and shall inform the child that he may be represented by counsel. The hearing shall be held no sooner than seven (7) days after the mailing of the notice. The Bureau for Social Services shall provide transportation for the child if he is unable to provide transportation for himself.

Section 6. Hearing Procedures. (1) The Placement Violation Review Board shall hear evidence given under oath presented by the child before the board and by the regional program manager requesting the return of the child and/or other witnesses designated by the regional program manager. The hearing shall be stenographically or mechanically recorded and shall be transcribed only at the request of the chairperson, the commissioner, a court, or the child before the board. The child shall make payment for the cost of the transcript if he requests the transcript himself and is financially able to pay. Strict rules of evidence shall not apply. Parties before the board shall be given full opportunity to present pertinent information to the board. Any party to a hearing may present witnesses and cross-examine adverse witnesses. However, the chairperson may waive cross-examination upon a finding of good cause. The regional program manager may be represented by an attorney from the Office of the Counsel, Department for Human Resources, and the child before the board may be represented by counsel.

(2) The board shall make written findings of fact which shall be submitted to the commissioner by the chairperson along with a recommendation concerning the case. Members of the board may make separate findings of fact and recommendations if they do not agree with the chairperson.

Section 7. Final Decision. (1) The commissioner, after reviewing the findings of fact and recommendation(s), shall make a decision as to the disposition of the child. This decision shall be final. If the commissioner determines that the child has violated the conditions of supervised placement, he may order the child's return to a residential treatment facility based on a consideration of the seriousness of the violation(s), and whether or not it would be in the best interest of the child under the circumstances surrounding the case to return the child to a residential treatment facility. In such cases, the commissioner may order an alternative disposition based upon a determination of the best interest of the child. The commissioner shall make known his decision in writing to the child, his parents and counsel, if any. If the commissioner finds that the child has violated the conditions of supervised placement, the notification shall include a written statement by the commissioner as to the evidence relied upon and the reasons for whatever disposition the commissioner determines is in the best interest of the child. The notification shall also include a statement that if the child is not satisfied with the decision, he may seek relief in the courts.

(2) If the commissioner determines that the child did not violate the conditions of his supervised placement, all references to the allegations against the child shall be removed from his record.

JACK C. LEWIS, Commissioner

ADOPTED: October 7, 1976

APPROVED C. LESLIE DAWSON, Secretary

RECEIVED BY LRC: October 12, 1976 at 10 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Secretary for Human Resources, Capitol Annex,
Frankfort, Kentucky 40601.

Reprinted Regulations

(As a convenience to subscribers, the following regulations, which became effective on October 1, 1976, are being reprinted here. All were published originally in Volume 2 of the Administrative Register but are not included in the bound volumes of the 1976 KENTUCKY ADMINISTRATIVE REGULATIONS SERVICE.)

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION Board of Chiropractic Examiners

201 KAR 21:051. Board hearings; charges and complaints.

RELATES TO: KRS 312.150, 312.155, 312.160

PURSUANT TO: KRS 13.082, 312.019

EFFECTIVE: October 1, 1976

NECESSITY AND FUNCTION: KRS 312.150 to 312.160 provides for the suspension or revocation of licenses by the board following a hearing. The purpose of this regulation is to establish procedural guidelines for board hearings and the processing of formal or informal charges or complaints against licensees.

Section 1. (1) As used in this regulation:

(a) "Board" means the Kentucky State Board of Chiropractic Examiners as provided by KRS Chapter 312.

(b) "Order" means the whole or part of any final disposition of the adjudication of a complaint before the board.

(c) "Sanction" means the revocation or suspension of a license.

(2) Complaints and investigations:

(a) A formal complaint may be made by any person by filing with the board at board offices a complaint verified by affidavit. The complaint shall contain:

1. The name, place of residence and address of the person making the charge as well as the name and place of residence of the person or persons against whom charges are made.

2. A clear and concise description of the issues of fact and law involved and the statutes or regulations which were allegedly violated by the party against whom the complaint is brought.

(b) Upon receipt of a formal complaint against a licensee, the board shall determine whether the nature and quality of the charges are such that further investigation or the initiation of a hearing procedure on the charges against the licensee is warranted. In making its determination, the board shall consider whether the charges are such that if proven would warrant sanction by the board.

(3) The board may at any time proceed against a licensee on its own initiative either on the basis of information contained in its own records or on the basis of information obtained through its own investigation.

(4) Whether charges are initiated against a licensee by formal complaint or on the board's own motion, no formal charge shall be brought against a licensee except upon the affirmative vote of a majority of the board.

(a) Should the board find that allegations against a licensee are insufficient for the initiation of a formal disciplinary procedure, it shall issue an order dismissing the matter and cause all interested parties to be so notified.

(b) If the board determines that disciplinary proceedings are appropriate, the board shall set the matter for hearing at a future meeting of the board and shall notify the licensee of the charges against him and the time and place of the hearing. The notice shall set forth with reasonable particularity the facts constituting the alleged offense and shall state the statutes or regulations of the board which are applicable to the charge. The notice of the charges shall be served upon the respondent licensee not less than twenty (20) days prior to the hearing either personally or by mailing a copy thereof by certified mail, return receipt requested to the respondent licensee's address last known to the board.

Section 2. (1) The hearing conducted pursuant to this regulation shall be presided over by the president of the board who shall be advised on legal issues by counsel designated by the board.

(2) The respondent may appear in person and by counsel and may cross-examine witnesses against him and produce evidence and witnesses in his own behalf and examine such evidence and documents as may be produced against him. The respondent shall be entitled, on application to the board, to the issuance of subpoenas pursuant to KRS 312.165, to compel the attendance of witnesses and evidence on his behalf. Any person compelled to appear at the hearing is entitled to be represented by counsel.

(3) The board shall keep a record of said hearing containing all communications regarding the charges against the respondent licensee. The record shall be available to the respondent or his authorized representative. The hearing shall be either mechanically and/or stenographically recorded.

(4) Except as provided otherwise by these rules, the rules of evidence as applied in civil cases in the circuit courts of the Commonwealth of Kentucky need not be strictly followed. It is the board's intention to permit full development of all relevant issues. However, irrelevant, immaterial or unduly repetitious evidence may be excluded. The board shall give effect to the rules of privilege which are recognized by the laws of the Commonwealth of Kentucky.

(5) When a hearing will be expedited and the interests of the parties will not be prejudiced substantially thereby, all or part of the evidence may be received in written form upon agreement of the parties. Documentary evidence may be introduced in the form of copies or excerpts if the

original is not readily available, provided that, upon request, parties shall be given the opportunity to compare the copy with the original.

(6) Notice may be taken of judicially recognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the board's specific knowledge; provided, however, that the parties shall be afforded an opportunity to contest the facts so noticed.

(7) When necessary to ascertain facts which cannot be proved, evidence not admissible under the foregoing rules may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs.

(8) Objections to evidence offered in proof may be made and the presiding officer shall rule on whether evidence objected to should be received and considered by the board in reaching its decision. All objections and the ruling of the presiding officer as to each objection shall be noted in the record.

(9) The board shall consider all the evidence in the record in reaching its decision. Ancillary matters not in evidence shall not be considered by the board. The vote of the board shall be taken by the president and it shall take a majority of the board to sustain the charges against the respondent licensee. The board shall adopt findings of fact and conclusions of law. The board shall issue its order and shall either dismiss the action against the respondent licensee, or sustain the charges or some portion thereof. Should the board by majority vote sustain some or all the charges, the board shall then by majority vote establish the sanction under law which it deems warranted. The order of the board shall be mailed to the respondent and his authorized representative by certified mail, return receipt requested.

Section 3. The respondent whose license has been revoked or suspended may within thirty (30) days of receipt of the order appeal to the Franklin Circuit Court. In the absence of such appeal, the order of the board shall be final at the expiration of the thirty (30) day period.

Section 4. 201 KAR 21:050 is repealed.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of October 6, 1976 meeting

(Subject to Subcommittee approval at its next meeting on November 3, 1976.)

The Administrative Regulation Review Subcommittee held its regularly scheduled meeting on Wednesday, October 6, 1976, at 10 a.m. EDT in Room 307 of the Capitol. Present were:

Members: Representative William T. Brinkley, Chairman; Senator Donald L. Johnson and Representative David G. Mason.

Guests: Representative E. Bruce Blythe; Dale Burchett, Kentucky State Board of Chiropractic Examiners; Capt. Elmo C. Head, Department of Military Affairs; Jon Fleischaker, The Courier Journal and The Louisville Times; Commissioner Addie Stokley, Arthur Hatterick, Jr., Charles C. Workman, Tom Graham, Harold L. Newton, Tom Lewis and Patrick Bales, Department of Personnel; George Reuthebeck and Joe Moore, Division of Occupations and Professions; Carroll Roberts, Board of Hairdressers and Cosmetologists; Richard S. Smith, Joseph D. Hudson and James C. Lamb, Department of Insurance; Robert Harrison, Department of Labor; Arvil C. Reeb, Jr. and Frank Reaves, Jr., Board of Examiners of Social Work; Howard Jones and Marshall E. Swain, Department of Education; A.A. Flatt, Department of Transportation; W. O. Hubbard, Irving Bell, Don Dixon and Lynn T. Mitchell, Department for Human Resources; Tom S. Maddox, J.A. Wolf and Thomas R. Emerson, Department of Agriculture; James M. Baker and Thom Rogers, Department of Justice; R. Coleman Endicott, Department of Alcoholic Beverage Control; Don L. Johnston and Jay Abraham, State Fair Board; Arthur S. Curtis, Jr. and Roy Hogg, Department for Natural Resources and Environmental Protection; Robert D. Preston, Kentucky Central Life Insurance Company; Judy Hagler, Kentucky Medical Association; Judith Taylor, Combined Committee on Aging; Bruce Pearce and James F. Clay, Kentucky Livestock Auction Association and Bourbon Stockyards Co., Inc.

LRC Staff: William H. Raines, E. Hugh Morris, Mabel D. Robertson, Ollie Fint, Garnett Evins and Rosemary Center. Press: Livingston Taylor, The Courier-Journal; Herb Sparrow, UPI.

The minutes of the meeting of September 1, 1976 were approved.

Senator Johnson moved, seconded by Representative Mason and unanimously carried, that the vote by which proposed regulation 201 KAR 21:051, Board of Chiropractic Examiners, was rejected at the September meeting be reconsidered.

Senator Johnson moved, seconded by Representative Mason and unanimously carried, that proposed regulation 201 KAR 21:051 be approved and ordered filed.

900 KAR 1:010, deferred at the September meeting to permit further study, was the next order of business. Lynn T. Mitchell, Department for Human Resources, answered members' questions. Jon Fleischaker, attorney for The Courier-Journal and The Louisville Times, spoke in opposition to the regulation. After discussion, Senator Johnson moved, seconded by Representative Mason and unanimously carried, that the regulation be rejected for the reason that it exceeded the authority of the open records statute and did not conform to legislative intent.

503 KAR 5:040, deferred at the September meeting, was considered. James Baker, Department of Justice, answered members' questions. Senator Johnson moved, seconded by Representative Mason and unanimously carried, that the regulation be rejected for the reason that it was not the intent of the legislature that new applicants for educational incentive payments be denied in order to continue full payments to present enrollees; and if approved, the regulation would be in direct conflict with the applicable statute.

201 KAR 12:057, rejected at the April 14, 1976 meeting, was reconsidered after having been properly signed by the Commissioner of the Bureau of Health Services. Carroll Roberts, Administrator of the Board of Hairdressers and Cosmetologists, answered members' questions relating to the regulation. Senator Johnson moved, seconded by Representative Mason and unanimously carried, that the regulation be rejected for the reason that it exceeded statutory authority.

600 KAR 1:010, rejected at the September meeting and amended accordingly by the Department of Transportation, was reconsidered. Senator Johnson moved, seconded by Representative Mason and unanimously carried, that the regulation be rejected for the reason that it went beyond the scope of the 1976 open records statute.

201 KAR 23:090 Register of licensees, submitted by the Board of Examiners of Social Work was withdrawn at the request of the board.

On motion of Senator Johnson, seconded by Representative Mason and unanimously carried, the following regulations were deferred until the November 3 meeting for the reasons stated:

303 KAR 1:002, State Fair Board, deferred at the request of Don Johnston, Executive Director, to permit the board to either amend or rewrite the regulation.

803 KAR 2:032, deferred at the September meeting in order for the subcommittee to review the federal regulation adopted by reference, was considered. Robert H. Harrison, Department of Labor, advised the subcommittee that the regulations' application for agricultural work would only apply to employers who employed ten or more persons on a full-time basis. The regulation was deferred until the November 3 meeting awaiting the federal communication giving this definition of application.

302 KAR 20:070 was deferred to the November 3 meeting in order to allow both proponents and opponents of the regulation to be present.

401 KAR 1:015, Division of Plumbing, was deferred after discussion of the four-fold increase in the application for a master plumber's license. Consensus was that an increase is necessary to carry on the program; however, the increase should be less than four times the present rate.

The following regulations were deferred, at the request of Representative Mason, to allow for agency representation at the November 3 meeting:

DEPARTMENT OF EDUCATION**Bureau of Administration and Finance****School District Finance**

702 KAR 3:185. Vocational and exceptional children units; deduction of average daily attendance, calculation of ASIS.

Bureau of Pupil Personnel Services
School Terms, Attendance and Operation

703 KAR 2:020. Calendar.

703 KAR 2:050. Attendance; resident, non-resident.

Bureau of Instruction

Instructional Services

704 KAR 3:010. Administrative and special services.

704 KAR 3:055. Criteria for the unit of instructional coordinator.

704 KAR 3:175. Criteria for unit of school psychologist.

704 KAR 3:180. Criteria for the unit of school psychometrist.

Private and Parochial Schools

704 KAR 6:010. Approval of regular day schools; attendance.

Elementary and Secondary Education Act

704 KAR 10:022. Elementary, middle and secondary schools standards.

Teacher Certification

704 KAR 20:005. Kentucky plan for preparation program approval.

704 KAR 20:030. Proficiency evaluation.

704 KAR 20:170. Non-tax supported schools.

704 KAR 20:222. Industrial education teachers.

Bureau of Vocational Education

Administration

705 KAR 1:010. State plan.

Instructional Programs

705 KAR 4:131. Industrial education programs.

705 KAR 4:151. Practical arts education programs.

Adult Education

705 KAR 7:050. Adult program plan.

Licensing Proprietary Schools

705 KAR 10:021. Repeals 705 KAR 10:010 to 705 KAR 10:120

Bureau of Education for Exceptional Children
Exceptional and Handicapped Programs

707 KAR 1:003. State plan for administration of the education of the handicapped act.

PUBLIC PROTECTION AND REGULATION CABINET

Department of Labor

Labor Standards; Wages and Hours

803 KAR 1:100. Child labor.

The following regulations were approved and ordered filed:

SECRETARY OF THE CABINET

Department of Personnel

Personnel Rules

101 KAR 1:050. Compensation plan. (Amended after hearing.)

Department of Military Affairs

National Guard

106 KAR 1:010. Educational encouragement fund.

EXECUTIVE DEPARTMENT FOR FINANCE
AND ADMINISTRATION

Office of Local Government

200 KAR 10:040. Area development fund; expenditure.

Division of Occupations and Professions

Board of Examiners of Social Work

201 KAR 23:010. Application for licensure.

201 KAR 23:020. Examination; fee.

201 KAR 23:030. License renewal; fee.

201 KAR 23:040. Suspension, revocation, refusal to renew license.

201 KAR 23:050. Termination of license, reinstatement.

201 KAR 23:060. Licensed and certified social workers.

201 KAR 23:080. Code of ethical practice.

CABINET FOR DEVELOPMENT

Industrial Development Finance Authority

Industrial Development

305 KAR 1:010. Loans or grants for subdivision projects serving two or more counties.

DEPARTMENT OF TRANSPORTATION

Bureau of Vehicle Regulation

Motor Vehicle Tax

601 KAR 9:035. Inspection before registration.

601 KAR 9:047. Salvaged vehicle registration.

DEPARTMENT OF EDUCATION

Bureau of Administration and Finance

General Administration

702 KAR 1:090. Replacement of instructional fees; funds, distribution and use.

Bureau of Rehabilitation Services

Administration

706 KAR 1:010. State plan for vocational rehabilitation.

PUBLIC PROTECTION AND REGULATION CABINET

Department of Labor

Occupational Safety and Health

803 KAR 2:020. Adoption of 29 CFR Part 1910.

803 KAR 2:030. Adoption of 29 CFR Part 1926.

803 KAR 2:060. Employers' responsibilities.

803 KAR 2:062. Employers' responsibilities where employees are exposed to toxic substances.

803 KAR 2:120. Citations.

Workmen's Compensation Board

803 KAR 25:060. Hearing officers.

Department of Alcoholic Beverage Control

Advertising Malt Beverages

804 KAR 2:007. Inside signs.

Department of Insurance

Authorization of Insurers and General Requirements

806 KAR 3:025. Salvage or subrogation recoveries. (Representative Mason voted No.)

Trade Practices and Fraud

806 KAR 12:060. Health insurance replacements. (Representative Mason voted No.)

Health Care Malpractice

806 KAR 40:010. Patient's compensation fund.

DEPARTMENT FOR HUMAN RESOURCES

Bureau for Health Services

State and Local Confinement Facilities

902 KAR 9:010. Environmental Health. (Amended after hearing)

The meeting adjourned at 1:15 p.m. to meet again at 10 a.m. EST on Wednesday, November 3, 1976 in Room 327 of the State Capitol.

Administrative Register ^{of} kentucky

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